

1. Name;
2. Grade level;
3. Date and place of birth;
4. Dates of school attendance;
5. Major field of study;
6. Participation in officially recognized activities;
7. Weight and height relating to athletic team membership;
8. Degrees;
9. Awards;
10. The most recent educational agency attended by the student; and
11. Other similar information.

“Student record” means information related to an individual student gathered within or outside the school district and maintained within the school district, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information that is maintained for the purpose of second-party review is considered a student record. Therefore, information recorded by certified school personnel solely as a memory aid and not for the use of a second party is excluded from this definition.

“Supervisor” means any appropriately certified individual assigned with the responsibility for the direction and guidance of the work of teaching staff members.

“Teaching staff member” holds the same meaning as the term is defined in N.J.A.C. 6A:9, Professional Licensure and Standards.

Amended by R.2013 d.046, effective March 4, 2013.  
See: 44 N.J.R. 2420(a), 45 N.J.R. 461(b).

Deleted definitions “Individual professional development plan”, “Observation”, “Observation conference” and “Regularly-certified, inexperienced first-year principals”.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In the introductory paragraph, deleted “, when used in this chapter,” following “terms”, and inserted “when used in this chapter”; rewrote definitions “Access”, “Board of school estimate”, “Chief school administrator”, “Health screening”, “Mandated student records”, “Parent”, “Student discipline record”, and “Teaching staff member”; deleted definitions “Administrative principal”, “Appropriately certified personnel”, “Challenge objective”, “Community”, “Commissioner”, “County superintendent”, “Department of Education”, “District board of education”, “Employee”, “Employee assurance statement”, “Evaluation”, “Group 1 school districts”, “Group 2 school districts”, “Indicators of student progress and growth”, “Job description”, “Medical evaluation”, “Objective”, “Performance report”, “Psychiatric examination”, “School-level plan”, “School report card”, and “Student”; inserted definition “Executive county superintendent”; in definition “Enrichment course”, deleted “to be” following “are”; in definition “Paraprofessional”, deleted “aide” following “school”; in definition “Permitted student records”, deleted “in order” following “collected”, and substituted “students” for “the student”; in definition “School contact directory for official use”, substituted “. The directory” for “, and

which”, and inserted a comma following “enforcement”; in definition “Secondary”, substituted a semicolon for a comma following the first and second occurrences of “schools”, inserted a comma following “eight”, and inserted a semicolon following the third occurrence of “schools”; in definition “Statement of assurance”, inserted “executive”; in the introductory paragraph of definition “Student information directory”, substituted a period for a colon following “student”, and inserted the second sentence; in definition “Student record”, deleted “any” preceding “certified” and a comma preceding “is excluded”, and substituted “and” for a comma following “aid”.

#### Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 236) adopted, which concluded that guidance counselor was required to return certain documents to school board; the documents were student records, not merely personal memory aids as the counselor contended. The documents were, in most instances, typed on a form entitled “Case Notes” and each document identified a particular student the counselor had been assigned to counsel and recorded the date and time and the observations made at that time. *Welty v. Bd. of Educ. of Lafayette*, OAL Dkt. No. EDU 11970-07, 2008 N.J. AGEN LEXIS 641, Commissioner’s Decision (May 12, 2008).

Letter from principal to parents reporting that their first-grade son had held his hand to another child’s head like a pistol and threatened to shoot him conformed to the broad definitions of “student discipline record” and “student record” as defined by N.J.A.C. 6A:32-2.1. 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 3. DISTRICT BOARDS OF EDUCATION—GENERAL

#### 6A:32-3.1 Special meetings of district boards of education

(a) The secretary of the district board of education shall call a special meeting of the district board of education whenever:

1. Requested by the president of the district board of education;
2. Requested by the chief school administrator when the district board of education fails to meet within two months during the period in which the schools in the district are in session; or
3. Presented with a petition signed by a majority of the full membership of the district board of education requesting the special meeting.

(b) Public notice of the special meeting shall be made pursuant to law and regulation, including N.J.S.A. 18A:10-6. Additionally, the public notice shall include the date, time, location, and purpose(s) of the special meeting.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (a)1, deleted “to do so” preceding and “or” following the semicolon; added new (a)2; recodified former (a)2 as (a)3; in (a)3, substituted “Presented” for “When presented”; and rewrote (b).

**6A:32-3.2 Requirements for the code of ethics for district board of education members and charter school board of trustees members**

(a) Each district board of education and charter school board of trustees shall:

1. Discuss annually the School Ethics Act and the Code of Ethics for School Board Members, pursuant to N.J.S.A. 18A:12-21 et seq., at a regularly scheduled public meeting;

2. Adopt policies and procedures regarding the training of district board of education and charter school board of trustees members in understanding the Code of Ethics; and

3. Provide documentation pursuant to (b) below that each member of the district board of education or charter school board of trustees has received and reviewed the Code of Ethics.

(b) Each member of the district board of education or charter school board of trustees shall sign an acknowledgement of receipt of the Code of Ethics for School Board Members contained within N.J.S.A. 18A:12-21 et seq. The acknowledgement of receipt requires each district board of education member and charter schools board of trustees member to read and become familiar with the Code of Ethics.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (a)1, inserted "annually", and deleted "annually" from the end; in (a)3, inserted "charter school"; and in (b), substituted "The" for "This".

**6A:32-3.3 Boards of school estimate**

(a) In any district board of education operating as a Type I school district, pursuant to N.J.S.A. 18A:9-2, the mayor of the municipality comprising the school district shall be the presiding officer of the board of school estimate.

(b) In the event of the absence of the mayor at any meeting of the board of school estimate, the members present at such meeting shall proceed to elect a presiding officer pro tem.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (a), inserted "as a Type I school district, pursuant to".

**SUBCHAPTER 4. EMPLOYMENT OF TEACHING STAFF**

**6A:32-4.1 Employment of teaching staff**

(a) Each district board of education or private agencies that provide educational services by means of public funds shall determine guidelines for the hiring of all staff.

(b) No teaching staff member shall be employed by any district board of education or private agencies that provide educational services by means of public funds unless he or she is the holder of a valid certificate (see N.J.S.A. 18A:26-2).

(c) Pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards, the district board of education shall provide certified personnel needed to implement a thorough and efficient system of free public schools.

(d) Each school shall be assigned the services of a full-time non-teaching principal to be responsible for administration and supervision of the school.

1. When a full-time non-teaching principal is not assigned to a school, the district board of education, upon advice of the chief school administrator, shall submit to the Commissioner for approval a plan that ensures adequate supervision of students and staff.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).  
Rewrote the section.

**Case Notes**

Initial Decision (2006 N.J. AGEN LEXIS 713) adopted, which rejected petitioner's contention that the District's refusal to promote him due to a prior suspension usurped the statutory powers of the Commissioner and the Board of Examiners to determine the appropriate penalties; the District was entitled to exercise its lawful discretion in the selection of candidates. *Engel v. State Operated School Dist. of Newark*, OAL Dkt. No. EDU 1594-02, 2006 N.J. AGEN LEXIS 918, Commissioner's Decision (September 28, 2006).

**6A:32-4.2 Approval of paraprofessional staff**

Statements of assurance affirming that all paraprofessional staff hired were employed as instructional or health and safety personnel or in accordance with the requirements of individualized education programs shall be submitted biannually to the executive county superintendent no later than September 30 and January 31.

Repeal and New Rule, R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Section was "Full-time employment of teachers".

**6A:32-4.3 Access to personnel records**

A district board of education or private agencies that provide educational services by means of public funds shall make employee records and information available for public access, pursuant to N.J.S.A. 47:1A-10, the Open Public Records Act.

Repealed by R.2013 d.046, effective March 4, 2013.  
See: 44 N.J.R. 2420(a), 45 N.J.R. 461(b).

Section was "Evaluation of tenured and nontenured chief school administrators".

Recodified from N.J.A.C. 6A:32-4.9 and amended by R.2013 d.141, effective December 16, 2013.

See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Section was "Reserved". Rewrote the section.

**6A:32-4.4 (Reserved)**

Repealed by R.2013 d.046, effective March 4, 2013.  
See: 44 N.J.R. 2420(a), 45 N.J.R. 461(b).

Section was "Evaluation of tenured teaching staff member".

**6A:32-4.5 (Reserved)**

Repealed by R.2013 d.046, effective March 4, 2013.  
See: 44 N.J.R. 2420(a), 45 N.J.R. 461(b).  
Section was "Evaluation of nontenured teaching staff members".

**6A:32-4.6 (Reserved)**

Repealed by R.2013 d.120, effective October 7, 2013.  
See: 45 N.J.R. 1292(a), 45 N.J.R. 2211(a).  
Section was "Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment".

**6A:32-4.7 (Reserved)**

Repealed by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).  
Section was "Approval of paraprofessional staff".

**6A:32-4.8 (Reserved)**

Repealed by R.2013 d.046, effective March 4, 2013.  
See: 44 N.J.R. 2420(a), 45 N.J.R. 461(b).  
Section was "Support residencies for regularly-certified, inexperienced first-year principals".

**6A:32-4.9 (Reserved)**

Recodified to N.J.A.C. 6A:32-4.3 by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).  
Section was "Access to personnel records".

**SUBCHAPTER 5. SENIORITY****6A:32-5.1 Standards for determining seniority**

(a) The word "employment" for purposes of these standards shall also be held to include "office" and "position."

(b) Seniority, pursuant to N.J.S.A. 18A:29-9 et seq., shall be determined according to the number of academic or calendar years of employment, or fraction thereof, as the case may be, in the school district in specific categories as hereinafter provided. The periods of unpaid absences not exceeding 30 calendar days aggregate in one academic or calendar year, leaves of absence at full or partial pay and unpaid absences granted for study or research shall be credited toward seniority. All other unpaid absences or leaves of absence shall not receive seniority credit.

(c) In computing length of service for seniority purposes, full recognition shall be given to previous years of service within the school district and the time of service in or with the military or naval forces of the United States or this State, pursuant to the provisions of N.J.S.A. 18A:28-12.

(d) Employment in the school district prior to the adoption of these standards shall be counted in determining seniority.

(e) The holder of an emergency certificate shall not be entitled to seniority rights but, when he or she becomes the

holder of a standard certificate, the years of employment under the emergency certificate shall count toward seniority under the standard certificate. Upon acquisition of a standard certificate, any periods of service under a provisional certificate shall also be counted toward seniority.

(f) Whenever a person shall hold employment simultaneously under two or more subject area endorsements or in two or more categories, seniority shall be counted in all subject area endorsements and categories in which he or she is or has been employed. For purposes of calculating seniority entitlement, there shall be no distinction between academic years and calendar years.

(g) Where the title of any employment is not properly descriptive of the duties performed, the holder thereof shall be placed in a category in accordance with the duties performed and not by title. Whenever the title of any employment shall not be found in the certification rules or in these rules, the holder of the employment shall be classified as nearly as may be according to the duties performed, pursuant to the provisions of N.J.A.C. 6A:9, Professional Licensure and Standards.

(h) Whenever a person shall move from or revert to a category, all periods of employment shall be credited toward his or her seniority in any or all categories in which he or she previously held employment.

(i) Whenever any person's particular employment shall be abolished in a category, he or she shall be given that employment in the same category to which he or she is entitled by seniority. If he or she shall have insufficient seniority for employment in the same category, he or she shall revert to the category in which he or she held employment prior to his or her employment in the same category and shall be placed and remain upon the preferred eligible list of the category from which he or she reverted until a vacancy shall occur in such category to which his or her seniority entitles him or her.

(j) If he or she shall have insufficient seniority in the category to which he or she shall revert, he or she shall, in like manner, revert to the next category in which he or she held employment immediately prior to his or her employment in the category to which he or she shall have reverted, and shall be placed and remain upon the preferred eligible list of the next preceding category, and so forth, until he or she shall have been employed or placed upon all the preferred eligible lists of the categories in which he or she formerly held employment in the school district.

(k) In the event of his or her employment in some category to which he or she shall revert, he or she shall remain upon all the preferred eligible lists of the categories from which he or she shall have reverted, and shall be entitled to employment in any one or more such categories whenever a vacancy occurs to which his or her seniority entitles him or her.

(l) The following shall be deemed to be specific categories, not necessarily numbered in order of precedence:

1. Superintendent of schools;
2. Assistant superintendent;
  - i. Each assistant superintendency shall be a separate category; and
  - ii. District boards of education shall adopt a job description for each assistant superintendent position which shall set forth qualifications and endorsements for such position;
3. Director;
  - i. Each director position shall be a separate category; and
  - ii. District boards of education shall adopt job descriptions for each director position which sets forth the qualifications and endorsements for such position;
4. High school principal;
5. Adult high school principal;
6. Alternative school principal;
7. Vocational school principal;
8. Junior high school principal;
9. Elementary principal;
10. Supervisor;
  - i. Each supervisory title shall be a separate category; and
  - ii. District boards of education shall adopt a job description for each supervisory position which sets forth the qualifications and specific endorsements required for such position;
11. High school vice principal or assistant principal;
12. Adult high school vice principal or assistant principal;
13. Alternative school vice principal or assistant principal;
14. Junior high school vice principal or assistant principal;
15. Elementary school vice principal or assistant principal;
16. Vocational school vice principal or assistant principal;
17. Secondary:
  - i. Any person holding an instructional certificate with subject area endorsements shall have seniority within the secondary category only in such subject area endorsement(s) under which he or she has actually served;
    - ii. Whenever a person shall be reassigned from one subject area endorsement to another, all periods of employment in his or her new assignment shall be credited toward his or her seniority in all subject area endorsements in which he or she previously held employment;
    - iii. Any person employed at the secondary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the secondary category and only for the period of actual service under such educational services certificate or special subject field endorsement; and
    - iv. Persons employed and providing services on a district-wide basis under a special subject field endorsement or an educational services certificate shall acquire seniority on a district-wide basis;
18. Elementary:
  - i. District boards of education that make a determination to reorganize instruction at grades seven and eight pursuant to these rules shall do so by adoption of a formal resolution setting forth the reasons for such reorganization;
  - ii. Any person employed at the elementary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the elementary category and only for the period of actual service under such educational services certificate or special subject field endorsement;
  - iii. Persons employed and providing services on a district-wide basis under a special field endorsement or an educational services certificate shall acquire seniority on a district-wide basis;
  - iv. Persons serving under elementary endorsements in departmentally organized grades seven and eight prior to September 1, 1983 shall continue to accrue seniority in the elementary category for all such service prior to and subsequent to September 1, 1983. In addition, such persons shall accrue seniority in the secondary category but limited to the school district's departmentally organized grades seven and eight and the specific subject area actually taught in such departmentally organized grades, subsequent to September 1, 1983; and
19. Additional categories of specific educational service endorsements issued by the State Board of Examiners and listed in the State Board rules dealing with teacher certification pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards.
  - (m) In the event of a restructure of grade levels which results in the elimination of all junior high schools in the school district and the creation of schools with a grade level organization which includes grades seven and eight, the seniority rights of the junior high principals, vice principals and assistant principals displaced by such restructuring shall

be transferable to the newly reorganized schools in the category as defined by (I)9 above.

#### Case Notes

Teacher was improperly removed from her position as the result of a reduction in force by the Board of Education because she had seniority over a teacher who was retained. Nothing in N.J.A.C. 6A:32-5.1 supported the manner of categorization employed by the Board and its consultant, which involved a list of categories exceeding the two categories recognized in the regulation. The regulation on its face states only that there is a secondary and an elementary category, and presumably, had the Department of Education intended that persons holding instructional certificates with subject area endorsements be treated in a separate category from others with secondary credit, the regulation would have explicitly said so, as it did for assistant superintendents, directors and supervisors. *Miles v. Bd. of Educ. of City of Asbury Park, Monmouth Cnty.*, OAL Dkt. NO. EDU 9226-10, 2013 N.J. AGEN LEXIS 16, Initial Decision (January 3, 2013).

Initial Decision (2009 N.J. AGEN LEXIS 625) adopted, which concluded that a laid-off former tenured teacher failed to show that the Board violated her tenure rights by its appointment of a non-tenured individual to the position of Isolated Classroom Experience (ICE) Monitor. Contrary to the teacher's argument, the position of ICE Monitor did not require an instructional certificate because no instruction took place in the ICE program and the position was, therefore, an "unrecognized title." *Macchia v. Bd. of Educ. of Bayonne*, OAL Dkt. No. EDU 5776-09, 2009 N.J. AGEN LEXIS 1014, Final Decision (October 8, 2009).

N.J.A.C. 6A:32-5.1, which provides that seniority credit does not accrue for unpaid absences exceeding 30 calendar days aggregate in one academic or calendar year, is part of the regulatory framework adopted under authority of N.J.S.A. 18A:28-10 to address the very different purpose of establishing the order of dismissals among a district's tenured staff in the event of a reduction in force, and, as such, has no bearing on — and cannot act to alter or limit — the conditions for acquisition of tenure established by N.J.S.A. 18A:28-5; therefore, an ALJ's determination that a teacher achieved tenured status notwithstanding a 43-day approved unpaid medical leave of absence, was not at odds with the seniority statute. *Jarmond v. Bd. of Educ. of Elizabeth*, OAL Dkt. No. EDU 9107-08, 2009 N.J. AGEN LEXIS 746, Final Decision (September 8, 2009).

Tenured teacher holding an instructional certificate with an endorsement as a physical education teacher failed to show that her tenure and seniority rights were violated when the Board abolished the position of physical education teacher in favor of the position of teacher of physical education and health, which required certification in both physical education and health; the teacher did not hold an endorsement to teach health and failed to take the necessary steps to obtain the required certification despite numerous communications that she needed to do so. *Francin v. Bd. of Educ. of Maywood*, OAL Dkt. No. EDU 9131-08, 2009 N.J. AGEN LEXIS 648, Final Decision (August 20, 2009).

Adopting Initial Decision's conclusion that a tenured school social worker under an educational services certification, who also possessed certification as an elementary teacher but had never served as a teacher in the school district, and whose social worker position was eliminated through a reduction in force, did not have rights over a nontenured applicant to a teaching position; neither tenure nor seniority applied across certificates, and therefore petitioner only had rights with regard to positions within the educational services certification (adopting 2008 N.J. AGEN LEXIS 70, as supplemented). *Aiello v. Bd. of Educ. of Westwood Reg'l School Dist.*, OAL Dkt. No. EDU 7986-07, 2008 N.J. AGEN LEXIS 263, Commissioner's Decision (March 20, 2008).

Where Nursing Assistant instructor, due to new regulations, lacked sufficient experience in geriatrics to meet the requirements for her position, and the district allowed her to serve as a temporary teacher in the Practical Nursing (PN) program to gain experience in geriatrics, the instructor was not eligible for tenure credit during the two months she taught PN without an appointment and under a substitute credential and could not tack those two months onto her seniority; consequently, the

reduction in force termination of the instructor was not improper under N.J.S.A. 18A:28-10. *Kelly v. Bd. of Educ. of Middlesex County Vocations Technical School Dist.*, OAL Dkt. No. EDU 4588-01, Commissioner's Decision (November 9, 2006), aff'd, SB No. 45-06, 2007 N.J. AGEN LEXIS 548 (N.J. State Bd. of Educ. May 2, 2007).

Nursing assistant emergency certification held by a teacher during the time she taught Practical Nursing (PN) classes with only a substitute certificate did not allow her to tack that time onto her seniority as a PN teacher; N.J.A.C. 6A:32-5.1(e) only applies to employees who later achieve standard certification in the same field as the emergency certificate under which they were serving. *Kelly v. Bd. of Educ. of Middlesex County Vocations Technical School Dist.*, OAL Dkt. No. EDU 4588-01, Commissioner's Decision (November 9, 2006), aff'd, SB No. 45-06, 2007 N.J. AGEN LEXIS 548 (N.J. State Bd. of Educ. May 2, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 344) adopted, which concluded that a former athletic director failed to show that the Board violated his tenure, seniority and/or preferred eligibility rights by its appointment of a non-tenured individual to the position of Assistant Principal for Athletics and Student Activities; contrary to petitioner's contention, the position of Assistant Principal for Athletics and Student Activities was not an unrecognized position under N.J.A.C. 6A:9-5.5. A vacant assistant principal position existed when the Board created the new position, and petitioner failed to show that the duties of the position lacked the character necessary to require a principal endorsement. *McGriff v. Bd. of Educ. of Montclair*, OAL Dkt. No. EDU 10927-04, 2006 N.J. AGEN LEXIS 647, Commissioner's Decision (July 13, 2006).

## 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 and private agencies that provide educational services by means of public funds.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (b), substituted "and" for "or" and "that" for "which".

### 6A:32-6.2 Policies and procedures for employee physical examinations

Pursuant to N.J.S.A. 18A:16-2, district boards of education shall adopt written policies and procedures for the physical examination of candidates for employment and, where the school district so chooses, for the physical examination of employees. The policies shall provide for notification to school employees and candidates regarding the requirements for physical examinations, and establish procedures to assure confidentiality during the collection, transmission and storage of employee and candidate medical records.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Rewrote the section.

**6A:32-6.3 Requirements of physical examinations**

(a) Physical examinations shall be used only to determine whether an applicant is able to perform with reasonable accommodation job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990 or when a school district determines there is a reasonable basis that such an examination would be necessary to protect the health of students.

(b) Individual employees may provide health-status information, including medications, that 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.

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

(d) 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 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 district board of education shall provide the employee with a hearing, if requested.
2. The determination of such a hearing shall be appealable to the Commissioner 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.

(e) All employee medical records, 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 medical information in the individual's file. The medical record section that 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 (b) above.

(f) The district board of education shall bear the cost of examinations made by a physician or institution designated by the district board of education. However, the employee shall bear the cost if the examination is performed by a

physician or institution designated by the employee with approval of the district board of education.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).  
Rewrote the section.

**SUBCHAPTER 7. STUDENT RECORDS****6A:32-7.1 General considerations**

(a) This subchapter applies to all district boards of education and private agencies that 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 contained in 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 provide annual, written notification to parents, adult students, and emancipated minors 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 this subchapter shall be construed to prohibit certified school personnel from disclosing at their discretion 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, adult student, or emancipated minor shall have access to his or her 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 child or himself or herself.

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

1. Guarantee access to persons authorized under this subchapter within 10 days of a request, but prior to any review or hearing conducted in accordance with N.J.A.C. 6A;
2. Assure security of the records;
3. Enumerate and describe the student records collected and maintained by the district board of education;

shall be the sum of the average daily enrollments obtained for the individual classes or schools.

(g) The average daily attendance in a school district for a school year shall be the sum of the days present of all enrolled students when schools were in session during the year, divided by the number of days schools were actually in session. The average daily attendance for the classes or schools of a school district having varying lengths of terms shall be the sum of the average daily attendance obtained for the individual classes or schools.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (a), inserted a comma following the first occurrence of "school", and following "withdrawals" twice, deleted "the" following "all", and substituted "the" for "that" preceding "district board"; in (b), substituted "the" for "that" following "for"; in (c)1 through (c)3, substituted a colon for a hyphen; in (c)2, substituted "Regional day" for "Day", and inserted "and"; rewrote (d) and (e); and in (f) and (g), inserted the third occurrence of "school".

### 6A:32-8.3 School attendance

(a) For purposes of school attendance, a day in session shall be a day on which the school is open and students are under the guidance and direction of a teacher or teachers engaged in the teaching process. Days on which school is closed for such reasons as holidays, teachers' institutes and inclement weather shall not be considered as days in session.

(b) A school day shall consist of not less than four hours, except that one continuous session of two and one-half hours may be considered a full day in kindergarten.

(c) An approved kindergarten shall meet the following requirements:

1. Each kindergarten teacher shall be properly certified pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards and in accordance with the *Abbott v. Burke* decision, *Abbott v. Burke*, 153 N.J. 480 (1998) ("*Abbott V*"); 177 N.J. 578 (2003) ("*Abbott X*").

2. A balanced program in an approved facility with adequate equipment, materials and supplies shall be provided each child. This program is to be designed to meet the individual needs of every child and may include instruction in reading and other subjects when it has been determined that a child is ready for such instruction by the teacher of the class; and

3. The maximum enrollment for a kindergarten class shall be 25 students per teacher and 21 students in an former Abbott school districts, in accordance with the *Abbott v. Burke* decision, *Abbott v. Burke*, 153 N.J. 480 (1998) ("*Abbott V*"); 177 N.J. 578 (2003) ("*Abbott X*"), and N.J.A.C. 6A:13-3.1 and 3.2 and 6A:13A-3.1(d). The executive county superintendent of schools may give permission to increase the number of students in a non-Abbott classroom provided another teacher, an auxiliary

teacher, or a teacher aide is employed full-time to provide for the increased size.

(d) A day of attendance shall be one in which a student is present for the full day under the guidance and direction of a teacher while school is in session. Whenever over-crowded conditions make it necessary to hold two separate sessions with a different group of students in each session, a student attending for all of either session shall be regarded as having attended for the full day. An excused absence for any reason shall not be counted as a day of attendance in the school register.

(e) A half-day class shall be considered the equivalent of a full day's attendance only if in session for four hours or more, exclusive of recess periods or lunch periods.

(f) A record of the attendance of all students on roll in a school register shall be kept each day that school is in session by a teacher or other authorized person. It shall be the duty of this person to keep the attendance records according to these rules and the specific instructions issued by the Commissioner.

(g) No student shall be recorded as present unless the school is in session and the student so recorded is under the guidance and direction of a teacher in the teaching process.

(h) A student shall be recorded as absent in the school register when not in attendance at a session of the school while a member of the school, except students excused due to religious holidays who shall be recorded as excused.

(i) A student shall be recorded as either present, absent, or excused for religious observance, every day the school is in session after the student enters until the date the student is transferred to another school, transferred to an individual home instruction record, or officially leaves the school system.

(j) The Commissioner shall annually prescribe a list of religious holidays on which it shall be mandatory to excuse students for religious observance upon the written request signed by the parent or person standing in loco parentis.

(k) The mere presence of a student at roll call shall not be regarded as sufficient attendance for compliance with these rules. In a school which is in session during both the forenoon and the afternoon, a student shall be present at least one hour during both the forenoon and the afternoon in order to be recorded as present for the full day. In a school which is in session during either the forenoon or the afternoon, a student shall be present at least two hours in the session in order to be recorded as present for the full day.

Amended by R.2013 d.141, effective December 16, 2013.  
See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Rewrote (b), (c)1, (c)3, and (f).

**Case Notes**

Initial Decision (2007 N.J. AGEN LEXIS 286) adopted, which concluded that the Department of Education properly withheld tuition payments for the non-allowable expense related to a private special-education school's failure to provide the mandated four hours of instructional time on half-days; the school did not sustain its burden of establishing that the Department's determination was arbitrary, capricious, or unreasonable. *Titusville Acad., Inc. v. N.J. Dep't of Educ.*, OAL Dkt. No. EDU 651-06, 2007 N.J. AGEN LEXIS 545, Commissioner's Decision (July 6, 2007).

**SUBCHAPTER 9. ATHLETICS PROCEDURES****6A:32-9.1 General requirements**

(a) A district board of education may adopt a program of activities of sports that complies with N.J.S.A. 18A:36-37.

(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 the owner to provide adequate safeguards for players and spectators. 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 students or teams of one or more schools of the same or other school districts, whether conducted on public or private facilities. Said policy shall be disseminated to appropriate personnel.

(d) A student 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 shall execute an acknowledgement that physical hazards may be encountered.

(e) Each 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.

Amended by R.2013 d.141, effective December 16, 2013.

See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Rewrote (a) through (c); deleted former (d) through (f), and recodified (g) and (h) as (d) and (e).

**SUBCHAPTER 10. SUMMER SCHOOL SESSIONS****6A:32-10.1 General**

(a) A summer school session shall be operated by a district board of education in compliance with N.J.S.A. 18A:11-15.

(b) Remedial, advancement and enrichment courses may be offered to meet student needs.

(c) Summer school sessions shall be separate from "extended school year services" as defined in N.J.A.C. 6A:14-1.3.

(d) All school districts operating elementary and/or secondary summer school sessions shall conduct fire and school security drills pursuant to N.J.S.A. 18A:41-1.

Amended by R.2013 d.141, effective December 16, 2013.

See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Rewrote (a); and added (c) and (d).

**6A:32-10.2 Costs and tuition**

(a) For students domiciled within the school district, the district board of education may charge tuition for any course provided during a summer school session to a student who resides in the school district in accordance with N.J.S.A. 18A:11-15.

(b) For students not domiciled within the school district, the district board of education may charge tuition for any course provided during a summer school session at an amount determined by the district board of education.

Recodified from N.J.A.C. 6A:32-10.3 and amended by R.2013 d.141, effective December 16, 2013.

See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

Rewrote the section. Former N.J.A.C. 6A:32-10.2, Approval, repealed.

**6A:32-10.3 Staffing**

(a) In each school, a member of the administrative, supervisory or teaching staff who is certified as an administrator shall be assigned the responsibilities of administration and supervision of the summer session.

(b) Teachers in summer school sessions conducted by district boards of education shall possess valid certificates for subjects taught. Curriculum enrichment may involve resource persons serving for specific periods of time under the supervision of a certified administrator, supervisor, or teacher.

Recodified from N.J.A.C. 6A:32-10.4 and amended by R.2013 d.141, effective December 16, 2013.

See: 45 N.J.R. 419(a), 45 N.J.R. 2590(a).

In (b), inserted "school", and inserted a comma following "supervisor". Former N.J.A.C. 6A:32-10.3, Costs and tuition, recodified to N.J.A.C. 6A:32-10.2.

**6A:32-10.4 Student assignment and credit**

(a) The assignment of students in a summer school session for remedial courses shall be based upon the recommendation of the principal of the school the student regularly attends, in accordance with policies established by the district board of education. The principal's recommendation shall state in writing the name of the subject(s) the student may take and the purpose for which each subject is taken.