

**CHAPTER 32
SCHOOL DISTRICT OPERATIONS**

Authority

N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-7.2a, 18A:6-50, 18A:7A-1, 18A:7A-1.1, 18A:10-6, 18A:12-21 et seq., 18A:13-14, 18A:16-1, 18A:17-14 to 14.3, 18A:17-17, 18A:17-20, 18A:17-32, 18A:22-14, 18A:22-19, 18A:24-11, 18A:27-15, 18A:28-9, 18A:28-13, 18A:29-6 through 16, 18A:38-1, 18A:40-12.1, and 18A:49-1 to 8.

Source and Effective Date

R.2005 d.298, effective September 6, 2005.
See: 37 N.J.R. 1982(a), 37 N.J.R. 3322(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 32, School District Operations, expires on September 6, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 32, School District Operations, was adopted as new rules by R.2005 d.298, effective September 6, 2005. See: Source and Effective Date.

Subchapter 15, Criminal History Review, was adopted as new rules by R.2009 d.306, effective October 5, 2009. See: 41 N.J.R. 2542(a), 41 N.J.R. 3798(b).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 32, School District Operations, was extended by gubernatorial directive from September 6, 2010 to September 6, 2012. See: 42 N.J.R. 2243(a).

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SUBCHAPTER 1. SCOPE AND PURPOSE

6A:32-1.1 Scope and purpose

The rules in this chapter are intended to provide assistance to district boards of education and school district administrators regarding the daily operation of their schools.

SUBCHAPTER 2. DEFINITIONS

6A:32-2.1 Definitions

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

“Access” means the right to view, to make notes, and/or to reproduce the student record.

“Administrative principal” means the principal who works directly with the district board of education in a school district that has no position of superintendent of schools.

“Adult student” means a person who is at least 18 years of age, or is attending an institution of postsecondary education, or is an emancipated minor.

“Advanced course” means any course or subject not previously taken in an approved school district program for which additional credits or advanced placement may be awarded upon successful completion of the course.

“Appropriately certified personnel” means personnel qualified to perform duties of supervision, including the superintendent, assistant superintendent, principal, assistant principal, vice principal, and supervisor of instruction who hold the appropriate certificate and who are designated by the district board of education to supervise instruction.

“Average daily attendance” means the total number of days that a student is present in school divided by the total possible number of days of attendance.

“Board of school estimate” means the governing body of a Type I school district, pursuant to N.J.S.A. 18A:22-1.

“Challenge objective” means a school-level objective that is developed when student performance or behavior is at or above minimum State standards.

“Chief school administrator” means the superintendent of schools, or if there is no superintendent, the administrative principal.

“Community” means the community at large, including, but not limited to, the parents of students.

“Commissioner” means the Commissioner of Education or the Commissioner’s designee.

“County superintendent” means a county superintendent of schools pursuant to N.J.S.A. 18A:7-7.1 et seq.

“Department of Education” means the New Jersey State Department of Education.

“District board of education” means and includes the board of education of any school district, pursuant to N.J.S.A. 18A:18A-2.

“Elementary” means kindergarten, grades one through six and grades seven and eight without departmental instruction.

“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.

“Enrichment course” means any course or subject of a vocational nature for which no credits are to be awarded.

“Evaluation” means a written assessment prepared by the administrative or supervisory staff member who visits the work station of a teaching staff member for the purpose of observing that individual’s performance of assigned duties.

“Group 1 school districts” means those school districts that meet the standards for student performance and behavior according to N.J.A.C. 6A:8-4.4(a) and 6A:32-12.2 and 13.1, and, therefore, will receive an abbreviated on-site evaluation.

“Group 2 school districts” means those school districts that do not meet the standards for student performance and behavior according to N.J.A.C. 6A:8-4.4(a) and 6A:32-12.2 and 13.1 and, therefore, will receive a full on-site evaluation.

“Health history” means the record of a person’s past health events obtained in writing, completed by the individual or his or her physician.

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

“Indicators of student progress and growth” means the results of formal and informal assessment of students as defined in N.J.A.C. 6A:8, Standards and Assessment.

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

“Mandated student records” means those student records that school districts have been directed to compile by State statute, regulation or authorized administrative directive.

“Medical evaluation” means the examination of an individual’s body by the school medical inspector or by any physician licensed to practice medicine.

“Objective” means a written statement of the intended outcome of a specific educational process.

“Paraprofessional” means a school aide or classroom aide who assists appropriately certified personnel with the supervision of student activities.

“Parent” means the natural or adoptive parent, the legal guardian, surrogate parent who has been appointed according to N.J.A.C. 6A:14-2.2(a) through (d), or a person acting in the place of a parent (such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student’s welfare). Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights under this chapter. For the purposes of this chapter, the term “parent” shall include the adult student as defined above. In addition, a foster parent may act as a parent under this chapter if the parent’s authority to make education decisions on the student’s behalf has been terminated by a court of appropriate jurisdiction.

“Performance report” means a written appraisal of the teaching staff member’s performance prepared by an appropriately certified supervisor.

“Permitted student records” means records that a district board of education has authorized, by resolution adopted at a regular public meeting, to be collected in order to promote the educational welfare of the student.

“Physical examination” means the assessment of an individual’s health, in accordance with the requirements of N.J.A.C. 6A:16-2.2.

“Psychiatric examination” means an examination of an individual for the purpose of diagnosis and treatment of mental disorder.

“Remedial course” means any course or subject that is a review of a course or subject previously taken for which credits or placement may be awarded upon successful completion of the course.

“School contact directory for official use” means a compilation by a district board of education that includes the following information for each student: name, address, telephone number, date of birth and school of enrollment, and which is provided for official use only to judicial, law enforcement and medical personnel.

“School-level plan” means a two-year plan that is developed by each school, is based on school report card data and includes student performance objectives, progress review by teaching and administrative staff and parent involvement.

“School report card” means a profile of each school that is compiled annually by the Department of Education and contains statistical information provided by the school district.

“Secondary” means grades nine through 12 in all high schools, grades seven and eight in junior high schools, grades

seven, eight and nine in middle schools and grades seven and eight in elementary schools having departmental instruction.

“Statement of assurance” means a document submitted by the chief school administrator to the county superintendent that verifies the development and implementation of the school-level plan.

“Student” means a person who is or was enrolled in a public school.

“Student discipline record” means information maintained in a student’s record of all disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:41-60, Disclosure of juvenile information.

“Student information directory” means a publication of a district board of education that includes the following information relating to a student:

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 any certified school personnel solely as a memory aid, 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” means a member of the professional staff of a school district holding office, position or employment of such character that the qualifications for such office, position or employment require him or her to hold a valid and effective standard, provisional or emergency certifi-

cate, appropriate to his or her office, position or employment, issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer.

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".

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 to do so; or
2. When 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 such special meeting shall be made pursuant to law and regulation. In accordance with N.J.S.A. 18A:10-6, the public notice shall include the date, time, location, and purpose(s) of the special meeting.

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 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 annually;

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 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. This 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.

6A:32-3.3 Boards of school estimate

(a) In any district board of education operating under 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.

SUBCHAPTER 4. EMPLOYMENT AND SUPERVISION OF TEACHING STAFF

6A:32-4.1 Employment of teaching staff

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

(b) Each district board of education shall determine the types of background experiences and personal qualities, if any, that the school district requires or prefers successful candidates for specific positions to possess in addition to appropriate State certification. Such local requirements shall be based upon a careful review of the position in question, and the requirements shall emphasize the nature of experience and the quality of individual achievement desired, rather than only the amount of experience.

(c) No teaching staff member shall be employed by any district board of education unless he or she is the holder of a valid certificate (see N.J.S.A. 18A:26-2). In addition, district boards of education should exercise their right and responsibility to require job candidates to present other, more detailed documentation of their competency. Such documentation includes résumés, references, records of past experiences, college transcripts, certification test scores, assessment reports, internship evaluations, and other documentation of competency relevant to the specific position.

(d) District boards of education shall assign to administrative positions those functions that are consistent with the

individual qualifications of the position occupant, and shall support the establishment of structures for making instructional decisions that take administrator qualifications into account.

(e) Teaching staff members shall be employed by the district board of education based upon the specific instructional needs of students of the school district and each school within the district. 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.

(f) 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.

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 Full-time employment of teachers

(a) The district board of education shall prescribe the period of time in each day required for full-time employment of teachers that shall not be less than four clock hours.

(b) Any full-time teacher employed in both a morning and an afternoon session shall be entitled to a duty-free lunch period during the hours normally used for lunch periods in the school. The duty-free lunch period shall not be less than 30 minutes except in a school where the lunch period for students is less than 30 minutes. In such cases, the duty-free lunch period shall not be less than the lunch period time allowed to students.

6A:32-4.3 (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 and nontenured chief school administrators".

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 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment

(a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for nonreemployment pursuant to N.J.S.A. 18A:27-3.2, he or she may request in writing an informal appearance before the district board of education. Such written request shall be submitted to the board within 10 calendar days of receipt of the board's statement of reasons.

(b) Such an informal appearance shall be scheduled within 30 calendar days from receipt of the district board of education's statement of reasons.

(c) Under the circumstances described in this section, a nontenured teaching staff member's appearance before the district board of education shall not be an adversary proceeding. The purpose of such an appearance shall be to permit the staff member to convince the members of the board to offer reemployment.

(d) Each district board of education shall exercise discretion in determining a reasonable length of time of the proceeding, depending upon the specific circumstances in each instance.

(e) Each district board of education shall provide adequate written notice to the employee regarding the date and time of the informal appearance.

(f) The nontenured teaching staff member may be represented by counsel or one individual of his or her own choosing.

(g) The staff member may present witnesses on his or her behalf. Such witnesses do not need to present testimony under oath and shall not be cross-examined by the district board of education. Witnesses shall be called into the meeting to address the board one at a time and shall be excused from the meeting after making their statements.

(h) The proceeding of an informal appearance before the district board of education as described herein may be conducted pursuant to N.J.S.A. 10:4-12(b)(8).

(i) Within three days following the informal appearance, the district board of education shall notify the affected teaching staff member, in writing, of its final determination. The board may delegate such notification to its chief school administrator or board secretary.

Case Notes

To the extent nontenured teaching staff members, who received non-renewal letters citing budgetary constraints in May and then learned in September that replacements were hired to fill their positions, alleged a violation of the legislatively-conferred right to a "Donaldson hearing," embodied in N.J.S.A. 18A:27-4.1(b) and N.J.A.C. 6A:32-4.6, any such deprivation could not be attributed to the local board; the employees failed to take the necessary action – which only they could have taken – to avail themselves of that right. *Middletown Educ. Ass'n ex rel. McGee v. Bd. of Educ. of Middletown*, OAL Dkt. No. EDU 12159-06, Commissioner's Decision (August 16, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 1042) adopted, which concluded that since N.J.S.A. 18A:27-3.2 and N.J.A.C. 6A:32-4.6 require that nontenured teaching staff members whose contracts are not renewed must make a request in order to receive a written statement of reasons and board appearance pursuant to N.J.S.A. 18A:27-4.1, then non-teaching staff employees should be subject to the same requirement; thus, petitioner, a non-teaching staff employee, could not complain about not receiving these opportunities when he did not make a request. *Ruby v. Bd. of Educ. of Piscataway*, OAL Dkt. No. EDU 6661-06, Commissioner's Decision (January 22, 2007).

6A:32-4.7 Approval of paraprofessional staff

(a) The county superintendent shall annually approve school aides and/or classroom aides who assist in the supervision of student activities under the direction of a principal, teacher or other designated certified professional personnel.

(b) In order to employ a paraprofessional, the district board of education shall develop a job description and standards for each appointment. The description and standards shall be based on the school district's needs and shall include:

1. The duties to be performed;
2. The types of proficiencies needed;
3. The academic and/or experience qualifications;
4. The arrangement for supervision of the aide; and
5. The compensation.

(c) The chief school administrator shall submit the job description and standards in (b) above to the county superintendent for approval. The county superintendent shall re-

view the description and standards proposed for classroom aide positions. If, after review of the description and standards, the county superintendent determines that the school district requires the paraprofessional position, he or she shall approve the school district's use of the position and notify the district board of education in writing of the approval.

Case Notes

Where a board of education determined that a tenured teacher with an instructional certificate, who lost her position due to a reduction in force, was not entitled to be placed in the position of permanent substitute assigned to the in-school suspension program by virtue of her tenured status since stipulated job duties of the permanent substitute position did not call for any instruction to be given and the listing for the position only required a county substitute certificate, under N.J.A.C. 6A:32-4.7, the County Superintendent failed to review the board's staffing pursuant to regulations requiring approval of the necessary qualification for paraprofessionals. Thus, the board was directed to submit the position to the Superintendent for a determination of the certification, if any, necessary to hold it (rejecting in part 2008 N.J. AGEN LEXIS 831). *Macchia v. Bd. of Educ. of Bayonne*, OAL Dkt. No. EDU 1396-08, 2008 N.J. AGEN LEXIS 1092, Final Decision (December 5, 2008).

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 Access to personnel records

(a) A district board of education shall make the following employee records and information available for public access, pursuant to N.J.S.A. 47:1A-10, the Open Public Records Act:

1. An individual's name, title, position, salary, payroll record, length of service, date of separation and reason for separation, and the amount and type of pension received;
2. Personnel or pension records of any individual when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by the State or the United States, or when authorized by an individual in interest; and