

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 (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 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 review 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

3. Data contained in information regarding specific experiential, educational or medical qualifications required for receipt of a public pension, except for detailed medical or psychological information.

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 herein-after 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 (l)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 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 evaluation 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, 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.

Case Notes

Conduct of a tenured administrative secretary in removing school documents without school approval contrary to N.J.A.C. 6A:32-7.1(b), in persistently failing to provide timely responses to requests made for copies of school transcripts and like records, and in persistently failing to deliver, to authorized personnel, money orders that were received by him in connection with transcript requests, thereby mishandling funds, constituted misconduct sufficient to justify removal of tenure. In re Asim, OAK Dkt. No. Edu 7394-12, 2013 N.J. AGEN LEXIS 89, April 11, 2013, Initial Decision.

Since an IEP team had determined that, in order for a 17-year-old student with severe emotional disturbances to receive a free appropriate public education, he needed to be educated in an out-of-district placement and, to one degree or another, his parents agreed that an out-of-district placement was appropriate, the board of education was granted permission to release the student's school records to potentially appropriate out-of-district placements and his parents were compelled to cooperate with intake procedures at prospective placements. The parents would be allowed to supplement the school records by forwarding any expert reports that they had obtained regarding the student's psychological condition or educational status to the out-of-district schools and his in-district high school. Ramapo Indian Hills Reg'l High School Bd. of Educ. v. M.D. ex rel. A.D., OAL Dkt. No. EDS 07551-08, 2008 N.J. AGEN LEXIS 631, Final Decision (July 14, 2008).

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

maintained in the school district and shall devise procedures for assuring that access to such records is limited to authorized persons.

(b) Records for each individual student shall be maintained in a central file at the school attended by the student. When records are maintained in different locations, a notation in the central file as to where such other records may be found is required.

1. Each district board of education shall maintain student health records in a secure accessible manner:

- i. Records shall be located in a locking cabinet or room;
- ii. Records kept in electronic form shall be both accessible and secure;
- iii. Student health records shall be maintained separately from other student records, 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.
- iv. Records shall be located in the school building or complex to which the student is assigned; and
- v. Records shall be accessible during the hours in which the school program is in operation.

(c) When records are stored in a computerized system, computer programmed security blocks are required to protect against any security violations of the records stored therein. To guard against the loss of student records, school districts shall maintain an updated hard copy and backup versions of student records.

(d) Mandated student records required as part of programs established through State administered entitlement or discretionary funds from the U.S. Department of Education shall be maintained for a period of five years after graduation or termination from the school district or age 23, whichever is longer, and shall be disposed of in accordance with N.J.S.A. 47:3-15 et seq.

(e) A district board of education that establishes an Internet website shall not disclose any personally identifiable information about a student, in accordance with N.J.S.A. 18A:36-35.

Case Notes

School principal was properly suspended for six months where he made no attempt to create or monitor a proper attendance system for the school (adopting 2009 N.J. AGEN LEXIS 126). In re Tenure Hearing of Tracy, OAL Dkt. No. EDU 6213-08, 2009 N.J. AGEN LEXIS 635, Final Decision (April 8, 2009).

6A:32-7.5 Access to student records

(a) Only authorized organizations, agencies or persons as defined in this section shall have access to student records, including student health records.

(b) Each district board of education shall control access to, disclosure of, and communication regarding information contained in student health records to assure access only to those persons under the conditions permitted by Federal and State statute and regulations or stated in (e) below.

(c) The district board of education may charge a reasonable fee for reproduction, not to exceed the schedule of costs set forth in N.J.S.A. 47:1A-2, provided that the cost does not effectively prevent the parents or adult students from exercising their rights under this subchapter or under rules and regulations regarding students with disabilities.

(d) Access to and disclosure of a student health record shall meet the requirements of the Family Education Rights and Privacy Act, 34 C.F.R. Part 99 (FERPA).

(e) Authorized organizations, agencies and persons shall include only the following:

1. The student who has the written permission of a parent the parent of a student under the age of 18 whether or not the child resides with that parent except per N.J.S.A. 9:2-4;
 - i. The place of residence shall not be disclosed; and
 - ii. Access shall not be provided if denied by a court;
2. Students at least 16 years of age who are terminating their education in the school district because they will graduate secondary school at the end of the term or no longer plan to continue their education;
3. The adult student and the student's parent who has the written permission of such student, except that the parent shall have access without consent of the student as long as the student is financially dependent on the parent and enrolled in the public school system or if the student has been declared legally incompetent by a court of appropriate jurisdiction. The parent of the financially dependent adult student may not disclose information contained in the adult student's record to a second or third party without the consent of the adult student;
4. Certified school district personnel who have assigned educational responsibility for the student shall have access to the general student record but not to the student health record except under conditions permitted in N.J.A.C. 6:16-1.5;
5. Certified educational personnel who have assigned educational responsibility for the student and who are employed by agencies listed below shall have access to the general student record but not to the student health record except under conditions permitted in N.J.A.C. 6:16-1.5:
 - i. An approved private school for the disabled;
 - ii. A State facility;
 - iii. Accredited nonpublic schools in which students with educational disabilities have been placed according to N.J.S.A. 18A:46-14; or

iv. Clinics and agencies approved by the Department of Education;

6. A district board of education, in order to fulfill its legal responsibility as a board, has access through the chief school administrator or his or her designee to information contained in a student's record. Information shall be discussed in executive session unless otherwise requested by the parent or adult student;

7. Secretarial and clerical personnel under the direct supervision of certified school personnel shall be permitted access to those portions of the record to the extent that is necessary for the entry and recording of data and the conducting of routine clerical tasks. Access shall be limited only to those student files which such staff are directed to enter or record information and shall cease when the specific assigned task is completed;

8. Accrediting organizations in order to carry out their accrediting functions;

9. The Commissioner of Education and members of the New Jersey Department of Education staff who have assigned responsibility which necessitates the review of such records;

10. Officials of other district boards of education within the State of New Jersey or other educational agencies or institutions where the student is placed, registered or seeks to enroll subject to the following conditions:

i. Original mandated student records which the schools have been directed to compile by New Jersey statute, regulation or authorized administrative directive shall be forwarded to the receiving school district with written notification to the parent or adult student;

ii. Original mandated student records which a district board of education has required shall be forwarded to the receiving school district only with the written consent of the parent or adult student except where a formal sending-receiving relationship exists between the school districts;

iii. All records to be forwarded, including disciplinary records as specified in N.J.S.A. 18A:36-19(a), shall be sent to the chief school administrator or his or her designee of the school district to which the student has transferred within 10 school days after the transfer has been verified by the requesting school district;

iv. The chief school administrator or his or her designee shall request all student records in writing from the school district of last attendance within two weeks from the date that the student enrolls in the new school district;

v. The chief school administrator or his or her designee of the school district of last attendance shall upon request, provide a parent(s) or an adult student with

a copy of the records disclosed to other educational agencies or institutions; and

vi. Proper identification, such as a certified copy of the student's birth certificate, shall be requested at the time of enrollment in a new school district;

11. Officials of the United States Department of Education who have assigned responsibilities which necessitate review of such records;

12. Officers and employees of a State agency who are responsible for protective and investigative services for students referred to that agency, pursuant to N.J.S.A. 9:6-8.40. Wherever appropriate, district boards of education shall ask such State agency for its cooperation in sharing the findings of the investigation;

13. Organizations, agencies and persons from outside the school if they have the written consent of the parent or adult student, except that these organizations, agencies and persons shall not transfer student record information to a third party without the written consent of the parent or adult student;

14. Organizations, agencies and individuals outside the school, other than those specified in this section, upon the presentation of a court order; and

15. Bona fide researchers who explain in writing, in advance to the chief school administrator, the nature of the research project and the relevance of the records sought and who satisfy the chief school administrator or his or her designee that the records are to be used under strict conditions of anonymity and confidentiality. Such assurance shall be received in writing by the chief school administrator prior to the release of information to the researcher.

(f) Nothing in this section shall be construed to prohibit school personnel from disclosing information contained in the student health record to students or adults in connection with an emergency, if such knowledge is necessary to protect the immediate health or safety of the student or other persons.

(g) In complying with this section, individuals shall adhere to requirements pursuant to N.J.S.A. 47:1A-10, the Open Public Records Act (OPRA) and 20 U.S.C. §1232g; 34 CFR Part 99, the Family Educational Rights and Privacy Act (FERPA).

6A:32-7.6 Conditions for access to student records

(a) All authorized organizations, agencies and persons defined in this subchapter shall have access to the records of a student, subject to the following conditions:

1. No student record shall be altered or disposed of during the time period between a request to review the record and the actual review of the record.

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

Since an IEP team had determined that, in order for a 17-year-old student with severe emotional disturbances to receive a free appropriate public education, he needed to be educated in an out-of-district placement and, to one degree or another, his parents agreed that an out-of-district placement was appropriate, the board of education was granted permission to release the student's school records to potentially appropriate out-of-district placements and his parents were compelled to cooperate with intake procedures at prospective placements. The parents would be allowed to supplement the school records by forwarding any expert reports that they had obtained regarding the student's psychological condition or educational status to the out-of-district schools and his in-district high school. *Ramapo Indian Hills Reg'l High School Bd. of Educ. v. M.D. ex rel. A.D.*, OAL Dkt. No. EDS 07551-08, 2008 N.J. AGEN LEXIS 631, Final Decision (July 14, 2008).

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.

(c) Student attendance shall be recorded in the school register during school hours on each day the school is in session.

(d) Separate school registers shall be kept for students attending preschool, kindergarten, grades one through five, grades six through eight, grades nine through 12, each preschool class for the disabled, each class for the disabled, shared-time classes for regular students, shared-time classes for students with disabilities, full-time bilingual education programs and vocational day programs, and summer schools operated by district boards of education.

(e) A student who has been placed on home instruction shall have his or her attendance status recorded on the regular register attendance pages for the program in which the student is enrolled. For the period beginning the first day the student is unable to attend school and ending the day before the first instructional day at the student's place of confinement, the student shall be marked absent. No absences will be recorded for the student while on home instruction, providing the hours of instruction are no less than required by N.J.A.C. 6A:14-4.8 and 4.9. The number of possible days of enrollment for a student on home instruction shall be the same as for other students in the program in which the student is enrolled.

6A:32-8.2 School enrollment

(a) The enrollment in a class, a school or a school district shall be the total number of original entries plus the number of re-entries, less the number of transfers, withdrawals or dropouts in any such unit during a school year. The total number of original entries and re-entries, less the number of transfers, withdrawals or dropouts, in all the classes and schools of a school district shall constitute the school enrollment for that district board of education during any school year.

(b) No student attending a school operated by a district board of education shall be enrolled in more than one school register in any school district during a school year. All students shall be enrolled as of the first day of attendance for that year.

(c) No student shall be enrolled in a school register until the student has reached the following legal school age:

1. Kindergarten—more than four years and less than six years;
2. Day school—more than five years;
3. Preschool disabled—more than three years and less than five years.

(d) Within 10 days of the start of the school year, a school district shall determine whether any re-entering student who has not attended school that year has an excused absence or has transferred, withdrawn or dropped out of the school district.

(e) Any student enrolled in a school register in a school district who moves to another school district in the same school year shall be enrolled in one register in the new school district upon entering school in that school district.

(f) The average daily enrollment in a school district for a school year shall be the sum of the days present and absent 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 enrollment for the classes or schools of a district having varying lengths of terms 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 district having varying lengths of terms shall be the sum of the average daily attendance obtained for the individual classes or schools.

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 of actual instruction, except that in an approved kindergarten one continuous session of 2 1/2 hours may be considered as a full day.

(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 6A:10A, Improving Standards-Driven Instruction and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices under Abbott v. Burke.

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 Abbott school district, in accordance with N.J.A.C. 6A:10A, Improving Standards-Driven Instruction and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices under

Abbott v. Burke. The county superintendent of schools may give permission to increase the number of students in a non-Abbott classroom to any number he or she chooses 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 printed in the school register, and if necessary, according to supplementary instructions issued from time to time 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.

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

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

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

(d) Each candidate for a place on a school athletic squad or team shall be given a medical examination pursuant to N.J.A.C. 6A:16-2.2(h).

(e) The district board of education shall adopt a policy regarding the content and procedures for the administration of the medical examination required pursuant to N.J.A.C. 6A:16-2.2(h). Nothing in this section shall be interpreted as precluding the district board of education from adopting content and procedures in excess of the minimum requirements set forth herein.

(f) Any examination conducted by a physician other than the medical inspector or designated team doctor shall be reported to the medical inspector or designated team doctor on a form issued by the Commissioner of Education, and, as a minimum, include that content adopted by the district board of education. If, at the request of the parent or legal guardian, the medical examination is conducted by a physician other than the medical inspector or designated team doctor, such examination shall not be at the expense of the district board of education.

(g) 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.

(h) 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.

SUBCHAPTER 10. SUMMER SCHOOL SESSIONS

6A:32-10.1 General

(a) The rules for the approval of full-time public schools shall apply to all elementary and secondary summer sessions. No school summer session may be operated or approved unless it is operated by a district board of education without charge to students domiciled within the school district.

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

6A:32-10.2 Approval

The operation of a summer session requires annual approval by the county superintendent of schools.

6A:32-10.3 Costs and tuition

(a) For students domiciled within the school district, the district board of education shall not charge tuition for any remedial or advanced course.

(b) Tuition may be charged for enrichment courses which carry no credit and are determined by the county superintendent

of schools to have no direct relationship to the curriculum.

6A:32-10.4 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 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.

6A:32-10.5 Student assignment and credit

(a) The assignment of students in summer session for remedial courses shall be based upon the recommendation of the principal of the school which 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) which the student may take and the purpose for which each subject is taken.

(b) An evaluation and a description of work completed shall be included in the student's cumulative record and the principal of the sending school shall determine the grade placement of the student.

(c) To receive advanced credit for a subject not previously taken, the student shall receive class instruction in summer session under standards equal to those during the regular term.

(d) Full-year subjects which are given for review, remediation or for other purposes not including advanced

credit shall be conducted for 60 hours of instruction under standards equal to those during the regular term or through an established number of curricular activities as determined by the district board of education and approved by the county superintendent of schools.

(e) Credit for work taken in an approved elementary or secondary school summer session shall be transferable in the same manner as work taken in any approved elementary or secondary school, in accordance with district board of education policy.

(f) The principal shall give prior approval for work to be taken at other educational institutions or environments. These shall include, but not be limited to, other public and private schools, institutions of higher education and on-line courses.

(g) The amount of the time which a student has spent in receiving class instruction shall become part of his or her permanent record and shall be included whenever the record is transferred to another school.

SUBCHAPTER 11. WITHDRAWAL FROM REGIONAL SCHOOL DISTRICTS

6A:32-11.1 Application and data for investigation of advisability of withdrawal

(a) Any district board of education constituting part of a limited purpose regional school district or the governing body of such school district, or the governing body of any municipality constituting part of an all purpose regional school district may apply to the county superintendent of schools to make an investigation as to the feasibility of withdrawal of such constituent school district or municipality from the regional school district. Such body shall adopt a resolution by a recorded roll call vote of the majority of the full membership requesting that the county superintendent make such investigation. The resolution request submitted to the county superintendent shall include the following information:

1. A general description of the regional school district and of the withdrawing constituent school district, including, but not limited to, the type of educational system, number of schools and grade levels served, community population, and geographical characteristics;

2. Enrollment data, including, but not limited to, the number of students enrolled as reported by grade on the Annual Application for State School Aid and estimated projected enrollments, by grade level, for the succeeding five school years for both the withdrawing school district or municipality and the remaining regional school district, based on growth factors using average percentages for the last three school years;

3. The racial composition of the student population enrolled in the regional school district from the withdrawing school district or municipality, and the effect of such withdrawal upon the racial composition of the remaining student population of the regional school district;

4. Two appraisals of each school site which is part of the regional school district prepared by qualified appraisers. If two or more constituent school districts or municipalities request such a study, the selection of the appraisers and the cost of the required appraisals shall be made and shared jointly; and

5. The proposed educational plan for the students from the withdrawing school district or municipality presently enrolled in the school or schools of the regional school district.

(b) Within 21 days following adoption of such resolution, such body shall confer with the remaining constituent school districts and/or the governing bodies of the constituent municipalities, and the regional district board of education and the county superintendent to review the procedure required for withdrawal from a regional school district. Such conference may be called by the county superintendent at the request of a constituent school district or municipality prior to its adoption of such resolution.

6A:32-11.2 Investigation and report by county superintendent of schools

(a) Upon receipt of the resolution and accompanying data pursuant to N.J.A.C. 6A:32-11.1, the county superintendent shall make an investigation and shall within 60 days after receipt of such request issue a report, in accordance with N.J.S.A. 18A:13-52 or 18A:13-67, to governing bodies of the municipalities constituting the regional school district and the board of education of the regional school district. If the county superintendent's report addresses the withdrawal of a constituent school district or school districts from a limited purpose regional school district, the report shall also be issued to the boards of education of the constituent school district. When the county superintendent has begun such investigation, no action shall be taken upon a subsequent request from another constituent school district or municipality of the same regional school district until the investigation, report and action thereon have been completed. This report shall be based on data supplied by the petitioning school district(s) or municipality(ies) including, but not limited to, the following:

1. A general description of the regional school district, including the number of constituent school districts, school buildings, area of the total school district, and area of the withdrawing school district or municipality;

2. Enrollment data, including the number of students enrolled as reported by grade on the Annual Application

for State School Aid and estimated projected enrollment, by grade level, for the succeeding five school years for both the withdrawing school district or municipality and the remaining regional school district, based on growth factors using average percentages for the last three school years and a review of municipal planning documents (master plan elements, zoning maps) including any annual reports or summaries of land use approvals within the past five years;

3. Enrollment data, by grade level, showing the racial composition of the present regional student population and the resulting racial composition for both the withdrawing school district or municipality and the remaining regional school district if withdrawal is approved;

4. The operating expenses of the regional school district for the present school year including the distribution of such current operating expenses among the constituent school districts or municipalities;

5. The equalized valuation of each constituent school district or municipality of the regional school district as set forth in N.J.S.A. 18A:7F-1 et seq.;

6. The average equalized valuations of the real property of each constituent school district or municipality of the regional school district as set forth in N.J.S.A. 18A:24-1 et seq.;

7. The borrowing margin of each constituent school district or municipality of the regional school district as determined by N.J.S.A. 18A:24-1 et seq., and the revised borrowing margin of each constituent school district or municipality and the withdrawing school district or municipality, if approval is granted;

8. The apportionment of debt service for the current school year among all the constituent school districts or municipalities of the regional school district by dollar amounts and percentages;

9. The replacement costs of school buildings and additions, grounds, furnishings and equipment of the regional school district, and the replacement cost of any school building, and additions of the regional school district including grounds, furnishings, and equipment, situated in the withdrawing school district or municipality. School building replacement costs will be calculated by the Office of School Facilities as follows:

i. The current overall cost per square foot for school construction in New Jersey, updated annually in the fall of each year, will be multiplied by the gross area of the building;

ii. This figure will include construction costs, moveable and built-in furniture and equipment, and fees; and

iii. Site costs will be excluded since they are already included under N.J.A.C. 6A:11-7.1(a).

10. The amount of indebtedness, if any, to be assumed by the withdrawing constituent school district or municipality;

11. The distribution of assets and liabilities of the existing regional school district and remaining regional school district following withdrawal in the manner as provided by N.J.S.A. 18A:8-24;

12. A proposed educational plan for the withdrawing constituent school district or municipality, if withdrawal is approved, including the effects of such withdrawal upon the educational program of the remaining regional school district and on the provision of adequate public school facilities and services at a reasonable cost;

13. A summary of the advantages of withdrawal to both the withdrawing constituent school district or municipality and the remaining regional school district and the disadvantages to the withdrawing constituent school district or municipality and the remaining regional school district; and

14. A recommendation regarding the request for withdrawal from the regional school district by the county superintendent.

(b) Upon adoption of a resolution, in accordance with N.J.S.A. 18A:13-51 or 18A:13-66, the board of education of the regional school district shall not incur any additional indebtedness for capital projects, pending either the rejection of the proposal at a special school election or an effective date of withdrawal as determined by the Commissioner of Education.

6A:32-11.3 Special school election

(a) If the application is granted upon completion of the procedures contained in N.J.S.A. 18A:13-54 to 56 or 18A:13-69 to 71, the county superintendent shall confer with the regional district board of education and the boards of education of the constituent school districts of a limited purpose regional school district or the constituent municipal governing bodies of an all purpose regional school district and fix a day and time for holding a special school election, in accordance with the provisions of N.J.S.A. 18A:13-57 or 18A:13-72.

(b) To be effective, the proposal shall be adopted by a majority of the legal votes cast within the withdrawing constituent school district or municipality, and, in addition, a majority of the combined legal votes cast within the remainder of the regional school district.

6A:32-11.4 Final determination of board of review

The board of review, which shall consist of the Commissioner, who shall be chairperson, the State Treasurer or his or her designee, and the Director of the Division of Local

Government of Community Affairs, shall include in its final determinations required by N.J.S.A. 18A:13-56 or 18A:13-71, any specific conditions under which its consent is granted in order to insure that a thorough and efficient system of public schools will be maintained in the withdrawing school district(s) or municipality(ies) and the remaining regional school district.

6A:32-11.5 Effective date of withdrawal

If approved at said election, the withdrawal of the school district or municipality shall become effective upon a date to be determined by the Commissioner of Education, pursuant to the provisions of N.J.S.A. 18A:13-59 or 18A:13-74.

6A:32-11.6 Staff tenure and seniority rights

Staff affected by the withdrawal of the school district shall be entitled to exercise tenure and seniority rights in accordance with *Staagard v. Contini et al.*, 97 N.J.A.R. 2d (EDU) 271, *aff'd* State Board, October 1, 1997, and *Allen et al. v. Board of Education of the Township of Clark, Union County*, decided by the Commissioner April 30, 2004, *aff'd* State Board, September 1, 2004.

SUBCHAPTER 12. ANNUAL REPORTING AND PLANNING REQUIREMENTS

6A:32-12.1 Reporting requirements

(a) By October 30 of each year, the chief school administrator shall submit a Quality Assurance Annual Report (QAAR) to the Department and present the QAAR to the public at a regular district board of education meeting. The QAAR shall include:

1. The status of all capital projects in the school district's approved long range facilities plan then in effect, pursuant to N.J.A.C. 6A:26-2.2(a)7;
2. The maximum permitted amount of the school district's capital reserve account calculated pursuant to N.J.A.C. 6A:26-9.1(d);
3. Implementation of school-level plans pursuant to N.J.A.C. 6A:32-12.2;
4. Achievement of performance objectives pursuant to N.J.A.C. 6A:32-12.2(a)3;
5. Each school report card pursuant to N.J.S.A. 18A:7E-2, including student performance results and student behavior data pursuant to N.J.A.C. 6A:32-12.2(a)1;
6. Professional development activities pursuant to N.J.A.C. 6A:32-4.4(e)2;

7. Condition of school facilities pursuant to N.J.A.C. 6A:26, Educational Facilities;

8. Status of mandated program reviews pursuant to N.J.A.C. 6A:32-14;

9. Community support data contained in (d) below; and

10. The assignment plan for certified and noncertified nurses developed by the school district and approved by the district board of education pursuant to N.J.A.C. 6A:16-2.1(f).

(b) By November 15 of each year, the chief school administrator shall submit a copy of the annual report to the county superintendent.

1. The documentation/activities for Group 1 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be the quality assurance annual report.

2. The documentation/activities for Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

- i. The quality assurance annual report; and
- ii. District board of education minutes.

(c) In addition to the requirements of (a) and (b) above, each district board of education shall, on forms approved by the Commissioner and at specified times, submit all reports required by statute.

(d) Over a seven-year period, the school district shall document community support through the following components:

1. A review of demographic data including any community facilities, master plan elements, the official zoning map and municipal master plan documents for municipalities served by the school district;
2. A community survey;
3. Identification of available resources and linkages to social service agencies;
4. Strategies to overcome any community and environmental conditions that hinder learning;
5. Methods to eliminate any barriers to community participation;
6. Planned level of community involvement; and
7. Strategies for parental involvement and parent-teacher interaction.

(e) Absent approval of the QAAR, a school district's budget shall not receive Department approval.

6A:32-12.2 School-level planning

(a) The school-level planning element shall be rated acceptable upon demonstration of performance in the following three indicators:

1. School report card:

i. Annually, the school district shall disseminate a report card of each school, which shall contain statistical information specified by the Department of Education, to all staff and parents. The school district shall also make the report card available to the media.

ii. The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be the school report card included in the annual report;

2. School-level plan:

i. By September 30, each school in the school district shall develop and implement a two-year plan based on school report card data. This plan shall include student performance objectives, a review of progress by teaching and administrative staff, and the involvement of parents.

ii. At least once per semester, each school shall conduct meetings by grade level, Department, team or similarly appropriate group to review the school level plan. Such review shall include:

(1) School report card data;

(2) Progress toward achieving student performance objectives; and

(3) Progress toward achieving core curriculum content standards.

iii. The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be a statement of assurance, signed by each principal, and submitted on the form prescribed by the Commissioner; and

3. Student performance objectives:

i. Each school in the district shall develop two or more objectives based on student performance or behavior standards as defined in N.J.A.C. 6A:8-4.4(a) and 6A:32-13.1 and 13.2. The objectives shall cover a period of no more than two years.

ii. The objectives shall be developed according to the following criteria:

(1) If student performance is below minimum State standards as defined in N.J.A.C. 6A:8-4.4(a) and 6A:32-13.1 and 13.2, objectives to meet such standards shall be established, Benchmarks (interim

performance levels) shall be set to measure the school's progress toward the achievement of minimum State standards.

(2) If student performance is at or above minimum State standards, challenge objectives shall be established.

iii. By August 1 of each year, the chief school administrator shall submit each school's objectives to the county superintendent for review and approval. The report on the achievement of objectives or progress towards benchmarks for the previous year shall be contained in the October 30 annual report.

iv. Each school shall achieve its student performance objectives by:

(1) Meeting established benchmarks for minimum State standards; and/or

(2) Achieving challenge objectives or demonstrating progress toward meeting such objectives.

v. Each school that does not meet established benchmarks for student performance objectives or demonstrate progress toward meeting challenge objectives for two successive years shall be assigned a technical assistance team by the county superintendent to facilitate accomplishment of these objectives.

vi. The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

(1) The quality assurance annual report; and

(2) Performance objectives.

SUBCHAPTER 13. STUDENT BEHAVIOR

6A:32-13.1 Student attendance

(a) The average daily attendance rate for each school district shall average 90 percent or higher as calculated for the three years prior to the school year in which the school district is monitored.

(b) Each school with a three-year average below 90 percent shall develop performance objectives to improve student attendance, pursuant to N.J.A.C. 6A:32-12.2(a)3.

(c) The documentation/activities for Group 1 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

1. The "New Jersey School Register Summary" provided by the Department; and

2. Student performance objectives, if below State standard.

(d) The documentation/activities for Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

1. The "New Jersey School Register" provided by the Department;
2. The "School Register Summary Report," prepared by the Department of Education; and
3. Student performance objectives, if below State standard.

6A:32-13.2 Dropouts

(a) The dropout rate for students in grades seven through 12 shall not exceed 10 percent, as calculated for the years prior to the school year in which the school district is monitored.

(b) Dropouts are defined as students who were 16 years of age or older who failed to complete the school year.

(c) Each school with a three-year average dropout rate exceeding 10 percent, as calculated for the years prior to monitoring, shall develop performance objectives to reduce the dropout rate, pursuant to N.J.A.C. 6A:32-12.2(a)3.

(d) The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

1. The fall report (consolidated enrollment: dropout information);
2. The application for State school aid; and
3. Student performance objectives, if required.

6A:32-13.3 Guidance and counseling

(a) The school district shall provide all students with a board-approved program of guidance and counseling services.

(b) The documentation/activities for Group 1 school districts shall be:

1. A written description of guidance and counseling services; and
2. District board of education minutes.

(c) The documentation/activities for Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be:

1. A written description of guidance and counseling services;

2. District board of education minutes;
3. Staff interviews; and
4. School visits.

SUBCHAPTER 14. STATE AND FEDERALLY MANDATED PROGRAMS AND SERVICES

6A:32-14.1 Review of mandated programs and services

(a) Regularly scheduled reviews will be conducted in each school district by the appropriate division of the Department of Education to determine compliance according to State or Federal law or regulation. The mandated reviews shall cover the following areas:

1. Comprehensive equity according to N.J.A.C. 6A:7-1.9;
2. Bilingual education, English as second language, English language services according to N.J.A.C. 6A:15, Bilingual Education;
3. Early childhood programs according to N.J.A.C. 6A:10A-3.4;
4. Demonstrably effective programs according to N.J.A.C. 6A:10A, Standards-Driven Instruction and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices under Abbott v. Burke;
5. Special education programs and services according to N.J.A.C. 6A:14, Special Education;
6. School district technology plans pursuant to P.L. 107-110, No Child Left Behind Act of 2001; and
7. Discretionary and entitlement grant programs pursuant to P.L. 107-110, No Child Left Behind Act of 2001.

(b) If the school district is rated compliant as a result of the review, it shall not be required to undergo additional monitoring as part of the seven-year monitoring cycle.

(c) If the school district is rated noncompliant as a result of the review, it shall develop and implement a corrective action plan. The status of the corrective action plan shall be reviewed prior to monitoring.

(d) The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be Department of Education program and service review reports and corrective action plans, if required.

6A:32-14.2 Grants management

(a) Each school district shall expend funds allocated through grants for State and Federally mandated programs and services in accordance with the contract.

(b) The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be Department of Education program and service review reports.

SUBCHAPTER 15. CRIMINAL HISTORY REVIEW**6A:32-15.1 Criminal history records check**

Any person required or requested to obtain a criminal history records check pursuant to N.J.S.A. 18A:6-7.1 et seq. or 18A:39-19.1 et seq., shall apply to the New Jersey Department of Education, PO Box 500, Trenton, New Jersey 08625-0500 and shall pay a fee of \$10.00 to the New Jersey Department of Education.