

“Certified school nurse” means a person who holds a current license as a registered professional nurse from the State Board of Nursing and an educational services certificate, school nurse or school nurse/non-instructional endorsement from the Department of Education pursuant to N.J.A.C. 6A:9-13.3 and 13.4.

“Code of student conduct” means standards, policies, and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.5.

“Do Not Resuscitate order” or “DNR order” means a written directive signed by the parent or guardian of a student who, after consultation with the pediatrician and other advisors, declines emergency administration of cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) to the student.

“Electronic communication” means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or remotely activating paging device.

“Evaluation” means procedures used by a certified or licensed professional to make a positive determination of a student’s need for programs and services that extend beyond the general school program by virtue of learning, behavior, or health difficulties of the student or the student’s family.

“Expulsion” means the discontinuance of educational services or the discontinuance of payment of educational services for a student.

“Firearms” means items enumerated in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921.

“General education” means the educational programs and services provided to students other than students determined to be eligible for special education and related services pursuant to N.J.A.C. 6A:14-3.5 and 3.6.

“Guided-learning experiences” mean structured learning tasks that are assigned to the student to perform without the teacher being present, aligned to the school district curriculum and State Core Curriculum Content Standards, and designed to help the student to learn new or reinforce prior knowledge, practice skills, integrate knowledge and skills, or demonstrate mastery.

“Harassment, intimidation, or bullying” means any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, in accordance with N.J.S.A. 18A:37-14, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender

identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student’s property or placing a student in reasonable fear of physical or emotional harm to his or her person or damage to his or her property; has the effect of insulting or demeaning any student or group of students; or creates a hostile educational environment for a student by interfering with the student’s education or by severely or pervasively causing physical or emotional harm to the student.

“Home instruction” means the provision of one-to-one, small-group, or online instruction in the student’s place of residence or other appropriate setting due to a health condition, need for treatment, court order, or exclusion from general education for conduct or safety reasons.

“Individualized emergency healthcare plan” means a plan written by the certified school nurse that specifies the delivery of healthcare accommodations and services needed by a student in the event of an emergency.

“Individualized Program Plan” (IPP) means a written plan developed for a general education student who has been assigned by the district board of education to home instruction, an alternative education program or who is being provided other educational services either in or out of school that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25. The IPP sets forth the student’s present level of performance, measurable goals and short-term objectives or benchmarks that encompass behavioral and social competency as well as curriculum, and individually designed instructional activities to achieve the goals and objectives.

“Informal hearing” means a discussion between a school administrator and a student regarding the student’s alleged misconduct, pursuant to N.J.A.C. 6A:16-7.2, Short-term suspensions, in which the student is informed of his or her alleged violation of the district board of education’s code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, and the basis for the accusation. During the informal hearing, the student is given the opportunity to explain his or her version of the facts and events regarding the alleged violation.

“Long-term suspension” means removal of a student for more than 10 consecutive school days from the general education program, or the special education program when the appropriate procedures set forth in N.J.A.C. 6A:14-2.8 have been followed, but not the cessation of the student’s educational services.

“Medical home” means a health care provider, including NJ FamilyCare providers as defined by N.J.S.A. 30:4J-12 and the provider’s practice site chosen by the student’s parent or guardian for the provision of health care.

“Medical staff” means employees of the district board of education serving as school physician, certified school nurse, noncertified nurse, advanced practice nurse, registered nurse, or licensed practical nurse.

“Medication” means a drug approved by the Federal Food and Drug Administration for preventing, caring for, and assisting in the cure of disease and injury that has a written order from a physician licensed in medicine, dentistry or osteopathy, or from an advanced practice nurse. Medication does not include herbal remedies.

“Noncertified nurse” means a person who holds a current license as a professional nurse from the State Board of Nursing and is employed by a district board of education or nonpublic school, and who is not certified as a school nurse by the Department of Education.

“Nursing services plan” means a plan that describes in detail the nursing services to be provided throughout the school district based on the needs of its students, potential emergency situations, basic nursing services requirements, and the assignment of medical staff to provide the services.

“Parent” means the natural parent(s), adoptive parent(s), legal guardian(s), foster parent(s), or parent surrogate(s) of a student. When parents are separated or divorced, “parent” means the person or agency who has legal custody of the student, as well as the natural or adoptive parent(s) of the student, provided parental rights have not been terminated by a court of appropriate jurisdiction.

“Parent surrogate(s)” means an individual or individuals approved by the district board of education in accordance with N.J.A.C. 6A:32 to act on behalf of a student whose parent(s) is not available to assure the student’s education rights.

“Physical examination” means the examination of the body by a professional licensed to practice medicine or osteopathy, or by an advanced practice nurse. The term includes specific procedures required by statute as stated in N.J.A.C. 6A:16-2.2.

“Referral for evaluation” means programs and services suggested to a student or his or her family to make a positive determination regarding a student’s need for services that extend beyond the general school program.

“Referral for treatment” means programs and services suggested to a student or to his or her family:

1. To help implement the recommendations resulting from an evaluation, pursuant to N.J.A.C. 6A:16-1.3 and 4.1(c)5 and 6; or

2. In response to a positive alcohol or other drug test result, pursuant to N.J.A.C. 6A:16-4.4; or

3. In response to the family’s request for assistance with a learning, behavior, or health difficulty, pursuant to N.J.A.C. 6A:16-4.1(c)7 and 8.

“School grounds” means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider. School grounds also includes school buses, school-sponsored functions, structures that support the buildings, such as school district wastewater treatment facilities; generating facilities; and other central service facilities including, but not limited to, kitchens and maintenance shops. School grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by municipalities, private entities or other individuals during times when the school district has exclusive use of a portion of the land.

“School-sponsored function” means any activity, event or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized and/or supported by the school.

“Short-term suspension” means removal of a student for one but not more than 10 consecutive school days from the general education program or the special education program, in accordance with N.J.A.C. 6A:14-2.8, but not the cessation of the student’s educational services.

“Standing orders” means directives and protocols written by the school physician to carry out medical procedures for all students and staff.

“Student health record” means documented information relevant to the health of the student to manage the routine and emergency care of the student while school is in session.

“Substitute school nurse” means a person who holds a current license from the State Board of Nursing as a registered professional nurse and who has been issued a certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C. 6A:9-6.5(i).

“Truancy” means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.6(a)3 and the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3.

“Universal precautions” means a set of procedures designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus, and other bloodborne pathogens.

“Weapon” means items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f).

“Written order” means a directive and protocol written by the student’s medical home to address a healthcare need or provide a medical service for a specific student.

Amended by R.2001 d.309, effective September 4, 2001.
See: 33 N.J.R. 1253(a), 33 N.J.R. 3032(b).

In “School complex”, substituted “one building or a group of” for “two or more” preceding “buildings identified”.

Amended by R.2002 d.396, effective December 16, 2002.

See: 34 N.J.R. 3157(a), 34 N.J.R. 4433(a).

Added “School grounds”.

Amended by R.2003 d.175, effective May 5, 2003.

See: 34 N.J.R. 4336(a), 35 N.J.R. 1893(a).

Rewrote “School grounds”.

Amended by R.2005 d.297, effective September 6, 2005.

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

Added the definitions “Code of student conduct”, “Commissioner”, “Expulsion”, “General education”, “Harassment, intimidation or bullying”, “Long-term suspension”, “Short-term suspension”, and “Truancy”; rewrote definitions “Individual Program Plan”, and “Suspension”; amended N.J.A.C. cite in “Alternative education program,” and “Substitute school nurse;” amended “School grounds;” deleted “Removal.” Administrative correction.

See: 38 N.J.R. 2797(a).

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

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

Deleted definition “AIDS”; rewrote definitions “Alternative education program”, “Certified school nurse”, “Home instruction”, “School Complex” and “Standing orders”; added definitions “Asthma Action Plan”, “Case management”, “Guided learning experiences”, “HIV”, “Individualized emergency healthcare plan”, “Individualized healthcare plan”, “Informal hearing”, “Nursing Services Plan”, “School-sponsored function”, “Student health record” and “Written order”; substituted definition “Automated external defibrillator” for definition “Automatic external defibrillator”; in definition “Do Not Resuscitate order”, substituted “automated” for “automatic”; in definitions “Long-term suspension” and “Short-term suspension”, inserted “consecutive”; in definition “Medical staff”, substituted “school nurse, noncertified nurse” for “or noncertified school nurse”; substituted definition “Noncertified nurse” for definition “Noncertified school nurse”; in definitions “Parent surrogate(s)” and “Truancy”, updated N.J.A.C. references; and in definition “Physical examination”, deleted “, except N.J.A.C. 6A:16-2.2(g)” from the end.

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

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

Added definitions “Abused children” and “Intern”; and substituted definition “Firearms” for definition “Firearm”.

Amended by R.2007 d.383, effective December 17, 2007.

See: 39 N.J.R. 2579(a), 39 N.J.R. 5218(a).

Added definition “Random selection”; and rewrote definition “Referral for treatment”.

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

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

Rewrote the section.

6A:16-1.4 (Reserved)

Amended by R.2005 d.297, effective September 6, 2005.

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

Rewrote (a); in (c), substituted “, entitled” for “titled” following “Part 98”.

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

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

Section was “District policies and procedures”. Rewrote the section.

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

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

In (b)4, deleted “and” from the end; in (b)5, substituted “; and” for the period at the end; and added (b)6.

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

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

Section was “School district policies and procedures”.

6A:16-1.5 (Reserved)

Recodified to N.J.A.C. 6A:16-2.4 by R.2006 d.366, effective October 16, 2006.

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

Section was “Student health records”.

SUBCHAPTER 2. GENERAL PROVISIONS FOR SCHOOL HEALTH SERVICES

6A:16-2.1 Health services policy and procedural requirements

(a) Each district board of education shall develop and adopt the following written policies, procedures, and mechanisms for the provision of health, safety, and medical emergency services, and shall ensure staff are informed as appropriate:

1. The review of immunization records for completeness pursuant to N.J.A.C. 8:57-4.1 through 4.20;

2. The administration of medication to students in the school setting by the following authorized individuals:

i. The school physician;

ii. A certified school nurse or noncertified nurse;

iii. A substitute school nurse employed by the school district;

iv. The student’s parent;

v. A student approved to self-administer medication pursuant to N.J.A.C. 6A:16-2.1(a)5iii and 9 and N.J.S.A. 18A:40-12.3 and 12.4;

vi. Other school employees trained and designated by the certified school nurse to administer epinephrine in an emergency pursuant to N.J.S.A. 18A:40-12.5 and 12.6; and

vii. Other employees designated as a delegate and trained to administer glucagon pursuant to N.J.S.A. 18A:40-12.14.

3. The review of DNR orders received from the student’s parent or medical home;

4. The provision of health services in emergency situations, including:

i. The emergency administration of epinephrine via Epi-pen auto-injector pursuant to N.J.S.A. 18A:40-12.5;

ii. The emergency administration of glucagon pursuant to N.J.S.A. 18A:40-12.14;

iii. The care of any student who becomes injured or ill while at school or participating in school-sponsored functions;

- iv. The transportation and supervision of any student determined to be in need of immediate care; and
 - v. The notification to parents of any student determined to be in need of immediate medical care;
5. The treatment of asthma in the school setting, which shall include, but not be limited to, the following requirements:
- i. Each school nurse shall be authorized to administer asthma medication through use of a nebulizer pursuant to N.J.S.A. 18A:40-12.8(a);
 - ii. Each school nurse shall receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards, including, but not limited to, those of the National Institutes of Health and the American Academy of Allergy, Asthma and Immunology, pursuant to N.J.S.A. 18A:40-12.8(a); and
 - iii. Each student authorized to use asthma medication pursuant to N.J.S.A. 18A:40-12.3 or a nebulizer shall have an asthma treatment plan prepared by the student's medical home and submitted to the certified school nurse. The treatment plan shall identify, at a minimum, asthma triggers and shall be included in the individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b), for meeting the medical needs of the student while attending school or a school-sponsored function;
6. Administration of student medical examinations, pursuant to N.J.S.A. 18A:40-4, N.J.S.A. 18A:35-4.8, and N.J.A.C. 6A:16-2.2;
7. Utilization of sanitation and hygiene when handling blood and bodily fluids pursuant to N.J.A.C. 12:100-4.2, Safety and Health Standards for Public Employees, and in compliance with 29 CFR 1910.1030, Public Employees Occupational Safety and Health Program (PEOSH) Blood-borne Pathogens Standards;
8. Provision of nursing services to nonpublic schools located in the school district as required by N.J.S.A. 18A:40-23 et seq. and N.J.A.C. 6A:16-2.5;
9. Self-administration of medication by a student for asthma or other potentially life-threatening illness or life-threatening allergic reaction pursuant to N.J.S.A. 18A:40-12.3, 12.5, and 12.6, and the self-management and care of a student's diabetes as needed pursuant to N.J.S.A. 18A:40-12.15;
10. Development of an individualized healthcare plan and individualized emergency healthcare plan for students with chronic medical conditions, including diabetes, asthma, and life-threatening allergies, requiring special health services in accordance with N.J.S.A. 18A:40-12.11.c, 12.12, 12.13, and 12.15; and N.J.A.C. 6A:16-2.3(b)3xii; and
11. Management of food allergies in the school setting and the emergency administration of epinephrine to stu-

dents for anaphylaxis pursuant to N.J.S.A. 18A:40-12.6a through 12.6d.

(b) Each district board of education shall annually adopt the school district's nursing services plan at a regular meeting.

Amended by R.2001 d.309, effective September 4, 2001.

See: 33 N.J.R. 1253(a), 33 N.J.R. 3032(b).

In (f), rewrote the introductory paragraph, substituted "one building or a group of" for "two or more" in 1, added a new 2, recodified former 2 as 3 and rewrote the paragraph.

Amended by R.2001 d.472, effective December 17, 2001.

See: 33 N.J.R. 2936(a), 33 N.J.R. 4330(a).

In (d), added 12.

Repeal and New Rule, R.2006 d.366, effective October 16, 2006.

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

Section was "Health services personnel".

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

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

In (a)4ii, substituted "functions" for "activities".

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

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

Rewrote the section.

Case Notes

School board did not violate N.J.S.A. 18A:40-3.3 by hiring a school health aide who did not hold a school nurse endorsement since no requirement existed that a school nurse be in a school building at all times during which a non-certified nurse was performing supplemental services to the certified school nurse. *Ramsey Teachers Ass'n v. Board of Educ. of Ramsey*, 382 N.J. Super. 241, 888 A.2d 499, 2006 N.J. Super. LEXIS 2 (App.Div. 2006).

6A:16-2.2 Required health services

(a) Each school district shall ensure immunization records are reviewed and updated annually pursuant to N.J.A.C. 8:57-4.1 through 4.24.

(b) Each school district shall ensure a principal or his or her designee does not knowingly admit or retain in the school building a student whose parent has not submitted acceptable evidence of the child's immunization, according to the schedule specified in N.J.A.C. 8:57-4, Immunization of Pupils in School.

(c) Each school district shall perform tuberculosis tests on students using methods required by and when specifically directed to do so by the New Jersey Department of Health based upon the incidence of tuberculosis or reactor rates in specific communities or population groups pursuant to N.J.S.A. 18A:40-16.

(d) Each school district shall immediately report by telephone to the health officer of the jurisdiction in which the school is located any communicable diseases identified as reportable pursuant to N.J.A.C. 8:57-1, whether confirmed or presumed.

(e) Each public and nonpublic school in the State shall have and maintain for the care of students at least one nebulizer in the office of the school nurse or a similar accessible location, pursuant to N.J.S.A. 18A:40-12.7.

1. The school district shall conduct a criminal history background check on any physician before entering into an agreement for delivery of services.

2. The school physician shall be currently licensed by the New Jersey Board of Medical Examiners in medicine or osteopathy and shall have a training and scope of practice that includes child and adolescent health and development.

3. The school physician shall provide, at a minimum, the following services:

i. Consultation in the development and implementation of school district policies, procedures and mechanisms related to health, safety and medical emergencies pursuant to N.J.A.C. 6A:16-2.1(a);

ii. Consultation to school district medical staff regarding the delivery of school health services, which includes special health care needs of technology-supported and medically fragile children, including students covered by 20 U.S.C. §§1400 et seq., Individuals with Disabilities Education Act;

iii. Physical examinations conducted in the school physician's office or other comparably equipped facility for students who do not have a medical home or whose parent has identified the school as the medical home for the purpose of the sports physical examination;

iv. Provision of written notification to the parent stating approval or disapproval of the student's participation in athletics based upon the medical report;

v. Direction for professional duties of other medical staff;

vi. Written standing orders that shall be reviewed and reissued before the beginning of each school year;

vii. Establishment of standards of care for emergency situations and medically related care involving students and school staff;

viii. Assistance to the certified school nurse or non-certified nurse in conducting health screenings of students and staff and assistance with the delivery of school health services;

ix. Review, as needed, of reports and orders from a student's medical home regarding student health concerns;

x. Authorization of tuberculin testing for conditions outlined in N.J.A.C. 6A:16-2.2(c);

xi. Review, approval, or denial with reasons of a medical home determination of a student's anticipated confinement and resulting need for home instruction; and

xii. Consultation with the school district certified school nurse(s) to obtain input for the development of

the school nursing services plan, pursuant to N.J.A.C. 6A:16-2.1(b).

(b) The district board of education shall employ a certified school nurse to provide nursing services while school is in session pursuant to N.J.S.A. 18A:40-1 and 3.3.

1. The certified school nurse shall work under the direction of the school physician and chief school administrator.

2. The certified school nurse shall receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards including, but not limited to, those of the National Institutes of Health and the American Academy of Allergy, Asthma and Immunology.

3. The role of the certified school nurse shall include, but not be limited to:

i. Carrying out written orders of the medical home and standing orders of the school physician;

ii. Conducting health screenings, which include height, weight, blood pressure, hearing, vision, and scoliosis pursuant to N.J.A.C. 6A:16-2.2; and monitoring vital signs and general health status for emergent issues for students suspected of being under the influence of alcohol and controlled dangerous substances pursuant to N.J.S.A. 18A:40-4 and 12;

iii. Maintaining student health records, pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6A:16-2.4;

iv. Recommending to the school principal students who shall not be admitted to or retained in the school building based on a parent's failure to provide evidence of the child's immunization according to the schedules specified in N.J.A.C. 8:57-4;

v. Annually reviewing student immunization records to confirm with the medical home that the medical condition for the exemption from immunization continues to be applicable, pursuant to N.J.A.C. 8:57-4.3;

vi. Recommending to the school principal exclusion of students who show evidence of communicable disease, pursuant to N.J.S.A. 18A:40-7, 8, and 10;

vii. Directing and supervising the emergency administration of epinephrine and glucagon, and training school staff designated to serve as delegates, pursuant to N.J.S.A. 18A:40-12.6 and 12.14;

viii. Administering asthma medication through use of a nebulizer;

ix. Directing and supervising the health services activities of any school staff to whom the certified school nurse has delegated a nursing task;

x. Classroom instruction in areas related to health education pursuant to N.J.A.C. 6A:9-13.3;

xi. Reviewing and summarizing available health and medical information regarding the student and transmitting a summary of relevant health and medical information to the child study team for the meeting pursuant to N.J.A.C. 6A:14-3.4(h);

xii. Writing and updating, at least annually, the individualized health care plans and the individualized emergency healthcare plans for students' medical needs, and instructing staff as appropriate;

xiii. Writing and updating, at least annually, any written healthcare provisions required under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794(a), for any student who requires them;

xiv. Assisting in the development of and implementing healthcare procedures for students in the event of an emergency;

xv. Instructing teachers on communicable disease and other health concerns, pursuant to N.J.S.A. 18A:40-3; and

xvi. Providing other nursing services consistent with the nurse's educational services certification endorsement as a school nurse issued by the State Board of Examiners and current license approved by the State Board of Nursing.

(c) School districts may appoint a noncertified nurse under the supervision of a certified school nurse to supplement the services of a certified school nurse provided that:

1. The noncertified nurse shall be assigned to the same school building or complex as the certified school nurse pursuant to N.J.S.A. 18A:40-3.3.a.

2. A noncertified nurse is limited to providing services only as permitted under the noncertified nurse's license issued by the State Board of Nursing.

Amended by R.2002 d.134, effective May 6, 2002.

See: 34 N.J.R. 355(a), 34 N.J.R. 1667(a).

In (e), amended N.J.A.C. reference; added (g) and (h).

Repeal and New Rule, R.2006 d.366, effective October 16, 2006.

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

Section was "Required school health services".

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

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

In (d)3viii, deleted "educational services certification endorsement as a school nurse issued by the State Board of Examiners and" following "nurse's".

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

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

Rewrote the section.

Case Notes

School board did not violate N.J.S.A. 18A:40-3.3 by hiring a school health aide who did not hold a school nurse endorsement since no requirement existed that a school nurse be in a school building at all times during which a non-certified nurse was performing supplemental services to the certified school nurse. *Ramsey Teachers Ass'n v. Board of Educ. of Ramsey*, 382 N.J. Super. 241, 888 A.2d 499, 2006 N.J. Super. LEXIS 2 (App.Div. 2006).

ALJ assessed credibility and found that a school nurse left used needles in a common supply closet, failed to maintain the medical waste disposal box, failed to properly treat injured students, and turned out the lights, locked her office door, and failed to answer the door to treat a student having an asthma attack, warranting revocation of her certificates. In re *Certificates of Kersaint*, OAL Dkt. No. EDE 80-06, 2007 N.J. AGEN LEXIS 63, Initial Decision (February 23, 2007), adopted, SBE No. 0506-145 (N.J. State Bd. of Examiners June 7, 2007), aff'd, SB No. 16-07, 2007 N.J. AGEN LEXIS 965 (N.J. State Bd. of Educ. October 17, 2007).

6A:16-2.4 Required student health records

(a) Each school district shall maintain for each student pursuant to N.J.A.C. 6A:32 a student health record that includes the following mandated records:

1. Findings of health histories, medical examinations and health screenings pursuant to N.J.A.C. 6A:16-2.2 and 4.3; and

2. Documentation of immunizations against communicable diseases or exemption from these immunizations pursuant to N.J.A.C. 8:57-4.1, 4.3, and 4.4.

(b) Any district board of education employee with knowledge of, or access to, the following health information shall comply with restrictions for sharing information as required by Federal and State statutes and regulations.

1. Information that identifies a student as having HIV infection or AIDS shall be shared only with prior written informed consent of the student age 12 or greater, or of the student's parent as required by N.J.S.A. 26:5C-1 et seq. and only for the purpose of determining an appropriate educational program for the student.

2. Information obtained by the school's alcohol and other drug program that would identify the student as an alcohol or other drug user may be disclosed only for those purposes and under conditions permitted by 42 CFR Part 2.

3. Information provided by a secondary school student while participating in a school-based alcohol or other drug counseling program that indicates that a parent, guardian or other person residing in the student's household is dependent upon or illegally using a substance shall be shared only for those purposes and conditions permitted by N.J.S.A. 18A:40A-7.1.

(c) Access to and disclosure of information in the student health record shall meet the requirements of the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and 34 CFR Part 99, incorporated herein by reference, as amended and supplemented, and N.J.A.C. 6A:32-7.

(d) The school district shall provide access to the student health record to licensed medical personnel not holding educational certification who are working under contract with or as employees of the school district only to the extent necessary to enable the licensed medical personnel to perform his or her duties.

2. The purpose of the intervention, referral for evaluation, and referral for treatment components of the program shall be to:

- i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;
- ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;
- iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment that extends beyond the general school program by virtue of the use of alcohol, tobacco, or other drugs by the student or the student's parents;
- iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco, or other drug treatment;
- v. Help a student or a student's parents follow through on the recommendations resulting from an evaluation that has positively determined the harmful use of alcohol, tobacco, or other drugs by the student or the student's parents; and
- vi. Assist a student or a student's parents with a referral for treatment.

3. The purpose of the continuity of care component of the program shall be to:

- i. Assist with the provision of educational programs and services for students in treatment; and
- ii. Plan and provide supportive services for students who are returning from treatment.

4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco, and other drug abuse prevention and intervention, in accordance with N.J.S.A. 18A:40A-3 and 15.

- i. The in-service training shall be updated annually to ensure educational staff members have the most current information available on the subject of substance abuse and on the school district's comprehensive alcohol, tobacco, and other drug abuse program, policies, and procedures.

5. Student assistance coordinators employed by district boards of education shall assist school districts in the effective implementation of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9-13.2.

6. When a student assistance coordinator is not employed or contracted by a district board of education, the board shall assign school staff with appropriate educational services certificates to perform the student assistance coordinator functions, pursuant to N.J.S.A. 18A:40A-18.c

and (a)5 above, and to assist in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 17.

- i. The district board of education shall maintain documentation of school staff with appropriate educational services certificates who will perform the student assistance coordinator functions.

7. Each district board of education shall establish educational programs on alcohol, tobacco, and other drug abuse for parents, pursuant to N.J.S.A. 18A:40A-16 and 17(a), and offered at times and places convenient to the parents of enrolled students.

8. Each district board of education shall make and enforce rules to prohibit any person from smoking or carrying lighted tobacco at any time on school grounds or on school buses or other vehicles owned or contracted by the board of education, pursuant to P.L. 2009, c. 182, P.L. 2005, c. 383, N.J.A.C. 13:28-6.14, and N.J.A.C. 8:6.

Amended by R.2002 d.396, effective December 16, 2002.

See: 34 N.J.R. 3157(a), 34 N.J.R. 4433(a).

In (a)7, substituted "smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except" for "smoking of tobacco anywhere in its buildings except".

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

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

In (a)1ii, inserted "or eliminate"; in (a)1iii, substituted "Increase" for "Reduce"; in (a)2, substituted "parents" for "family" throughout; in (a)2ii, substituted "parents" for "families"; in (a)4, inserted "school"; added designation for (a)4i; in (a)5, updated the N.J.A.C. reference; and in (a)6, deleted "and guardians" following "parents" two times.

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

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

In (a)2ii, deleted "an" preceding "alcohol" and substituted "problems" for "problem".

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

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

Section was "Establishment of comprehensive alcohol, tobacco and other drug abuse programs". Rewrote the section.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 94) adopted, which concluded that because school districts have a fundamental role in the prevention of substance abuse among students, possession of a controlled substance by an educator, absent mitigating circumstances, is sufficiently flagrant conduct to warrant dismissal; therefore, the appropriate penalty for a tenured teacher who purchased a controlled substance while school was in session was dismissal. In re Tenure Hearing of Carter-Lee, OAL Dkt. No. EDU 9825-07, 2008 N.J. AGEN LEXIS 271, Commissioner's Decision (March 19, 2008).

6A:16-3.2 Confidentiality of student alcohol and other drug information

(a) Each district board of education shall assure compliance with the following confidentiality requirements consistent with the implementation of 20 U.S.C. § 1232g, the Family Education Rights and Privacy Act, and 34 CFR Part 99:

1. Confidentiality of alcohol and drug abuse patient records, pursuant to 42 CFR Part 2; and

2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program that indicates the student's parent or other person residing in the student's household is dependent upon or illegally using substances pursuant to N.J.S.A. 18A:40A-7.1 and 7.2.

Amended by R.2014 d.047, effective March 17, 2014.
See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

In the introductory paragraph of (a), inserted "consistent with the implementation of 20 U.S.C. § 1232g, the Family Education Rights and Privacy Act, and 34 CFR Part 99"; and in (a)2, substituted "that" for "which", and deleted "that" following "indicates".

SUBCHAPTER 4. PROCEDURES FOR ALCOHOL AND OTHER DRUG ABUSE INTERVENTION

6A:16-4.1 Adoption of policies and procedures for the intervention of student alcohol and other drug abuse

(a) Each district board of education shall adopt and implement policies and procedures for the assessment, intervention, referral for evaluation, referral for treatment, and enforcement of the code of student conduct, pursuant to N.J.A.C. 6A:16-7, for students whose use of alcohol or other drugs has affected their school performance, or for students who consume or who are suspected of being under the influence of or who possess or distribute the following substances on school grounds pursuant to N.J.S.A. 18A:40A-9, 10, and 11:

1. Alcoholic beverages;
2. Any controlled dangerous substance, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and 2C:35-2;
3. Any chemical or chemical compound that releases vapor or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes, as defined in N.J.S.A. 2C:35-10.4; and
4. Over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

(b) In adopting and implementing policies and procedures for assessment, intervention, referral for evaluation, and referral for treatment of alcohol or other drug-affected students, district boards of education shall consult with a local organization licensed by the New Jersey Department of Human Services, and may consult with out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate drug and alcohol licensing board, as appropriate, pursuant to N.J.S.A. 18A:40A-11.

(c) Each district board of education's policies for students using, possessing, or distributing alcohol and other drugs, as defined in (a) above, shall include the following components:

1. The role of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving students on school grounds;
2. Specific procedures, sanctions and due process provisions, consistent with N.J.A.C. 6A:16-4.4 and 7, as appropriate, for violations of the alcohol and other drug policy requiring action by the district board of education to apply the code of student conduct pursuant to N.J.A.C. 6A:16-7, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors;
3. Appropriate steps for ameliorating student problems related to alcohol and other drug use;
4. Appropriate steps for providing support for student transitions to and from health and social service agencies;
5. Specific procedures to govern instances where emergency room services are required in treating alcohol- or other drug-affected students;
6. Assessment or evaluation services for students who are affected by alcohol or other drug use. The services shall include one or more of the following:
 - i. Assessments by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse;
 - ii. Examinations by a physician for the purpose of determining whether alcohol or other drug use interferes with students' physical and mental abilities to perform in school or students are under the influence of alcohol or other drugs;
 - iii. Referrals for evaluation to community agencies, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate alcohol or other drug licensing board; or
 - iv. Evaluations by the child study team to determine students' eligibility for special education and related services, pursuant to N.J.A.C. 6A:14-3.5 and 3.6;
7. The provision of intervention, referral for evaluation, and referral for treatment services for students who are affected by alcohol or other drug use.

i. The notice of the public hearing shall specifically identify the proposed alcohol or other drug testing policies and procedures as an agenda item; and

ii. Copies of the proposed alcohol or other drug testing policies and procedures shall be made available upon request prior to the public hearing;

2. Apply the alcohol or other drug testing policies and procedures only to students in grades nine through 12 who participate in extra-curricular activities, including interscholastic athletics, or who possess parking permits;

3. Be responsible for all costs of the alcohol or other drug testing, including any costs associated with the transportation of students;

4. Ensure that the voluntary alcohol or other drug testing conducted pursuant to this section is separate and distinct from any other alcohol or other drug testing that might be administered by the district board of education, including the required medical examination of students currently suspected of being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3;

5. Ensure that the policies and procedures for the alcohol or other drug testing program, pursuant to (b) below, are included in and are consistent with the policies and procedures for the intervention of student alcohol or other drug abuse, pursuant to N.J.S.A. 18A:40A-10 and 11 and N.J.A.C. 6A:16-4.1; and

6. Provide written notice to all ninth-through-12th-grade students and their parents at the beginning of each school year that the active written consent of students and parents for random student alcohol or other drug testing is required for students to participate in extracurricular activities, including interscholastic athletics, or to possess a school parking permit.

(b) Each district board of education's written alcohol or other drug testing policies and procedures, pursuant to this section, shall include, but need not be limited to, the following components:

1. A statement that the purposes of the alcohol and other drug testing policies are to deter alcohol and other drug use and to provide a means for the early detection of students with alcohol or other drug problems so referral for evaluation or referral for treatment, pursuant to (b)10 below and N.J.A.C. 6A:16-1.3 and 4.1, or other appropriate assistance may be offered;

2. A description of the procedures for randomly selecting students for alcohol or other drug testing, which shall include, at a minimum:

i. The manner in which students shall be randomly selected for alcohol or other drug testing;

ii. An explanation of the sampling statistical principles supporting the random selection process; and

iii. An explanation of how implementation of the random selection process shall be documented and verified;

3. A description of the procedures for the acquisition and management of student's alcohol or other drug test specimens, which shall address the following, at a minimum and as appropriate to the method selected under (c) below:

i. Student monitoring;

ii. Student transportation;

iii. The acquisition and handling of students' specimens;

iv. The chain of custody of students' specimens;

v. The testing and analysis of students' specimens; and

vi. The storage of students' specimens;

4. The standards for ensuring confidentiality and scope of authorized disclosure of alcohol or other drug testing information that protect, at a minimum:

i. The identities of students who have been selected to be tested or who have been tested;

ii. The results of alcohol or other drug tests;

iii. The billing and management reports associated with alcohol or other drug tests; and

iv. Information, prior to the time of an alcohol or other drug test, that a test is to take place;

5. A description of the consequences for violating confidentiality and disclosure standards, pursuant to (b)4 above;

6. The parent providing consent to alcohol or other drug testing, pursuant to (a)6 above, shall be notified each time his or her child has been tested under the alcohol or other drug testing policy, pursuant to this section.

i. The school district shall establish procedures ensuring confidentiality of the notification;

7. The procedures for reporting results of alcohol or other drug tests, including written notification to students and their parents concerning test findings, that are consistent with (b)4 above.

i. Law enforcement authorities shall not be notified of test results;

8. The specific actions pursuant to N.J.A.C. 6A:16-7.1, as appropriate, N.J.A.C. 6A:16-4.1, and this section to be taken against students who test positive for alcohol or other drug use.

i. Actions to be taken against students who test positive for alcohol or other drug use shall be limited to:

(1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or

(2) Disapproval or revocation of student parking permits.

ii. Prior to actions being taken pursuant to (b)8i(1) or (2) above, all positive alcohol or other drug test results shall be confirmed by the laboratory using a methodology recommended by the laboratory instrument's manufacturer;

9. The procedures for students or their parents to challenge a positive result from the alcohol or other drug tests;

10. The guidelines for referral for evaluation or referral for treatment, pursuant to N.J.A.C. 6A:16-1.3 and 4.1 and this section, or the provision of other appropriate assistance for students who test positive for alcohol or other drug use; and

11. The specific actions, pursuant to N.J.A.C. 6A:16-7.1, to be taken against students who refuse to consent to alcohol or other drug testing.

i. Actions to be taken against students who refuse to consent to alcohol or other drug testing shall be limited to:

(1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or

(2) Disapproval or revocation of student parking permits.

(c) Each district board of education shall provide for the collection and testing of alcohol or other drug specimens by implementing one of the following methods, in accordance with N.J.S.A. 45:9-42.26 et seq. and N.J.A.C. 8:44 and 8:45:

1. Transporting randomly selected students, pursuant to (b)2 and 3ii above, to a State-licensed clinical laboratory to perform specimen collection and alcohol or other drug testing;

2. Choosing a State-licensed clinical laboratory to operate an onsite licensed collection station and to transport the specimens to the offsite licensed laboratory for alcohol or other drug testing;

3. Choosing to obtain a State license to operate the school district's own collection station for the collection of specimens, pursuant to (a)3 above, as appropriate, and (b)3 and 4 above, and contract with a licensed clinical labo-

ratory for transportation and alcohol or other drug testing of the specimens;

4. Choosing to obtain a State license to operate a clinical laboratory for onsite collection and alcohol or other drug testing of specimens; or

5. Choosing to contract with a State-licensed clinical laboratory to provide for both the onsite collection and alcohol or other drug testing of specimens.

(d) The district board of education shall limit the collection of specimens for alcohol or other drug testing in a State-licensed collection station or clinical laboratory, in accordance with N.J.S.A. 45:9-42.26 et seq., N.J.A.C. 8:44 and 8:45, and (c)1 above to the following persons:

1. A school physician;

2. A physician, other than the school physician, licensed to practice medicine or osteopathy other than the school physician;

3. A certified school nurse or noncertified nurse, pursuant to N.J.A.C. 6A:9-13.3 and 13.4; or

4. The staff of a State-licensed clinical laboratory or health care facility, in accordance with (c) above, as designated by the district board of education.

New Rule, R.2007 d.383, effective December 17, 2007.

See: 39 N.J.R. 2579(a), 39 N.J.R. 5218(a).

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

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

Rewrote the section.

SUBCHAPTER 5. SCHOOL SAFETY AND SECURITY

6A:16-5.1 School safety and security plans

(a) Each school district shall develop and implement comprehensive plans, procedures, and mechanisms that provide for safety and security in the school district's public elementary and secondary schools. Plans and procedures, which shall be in written form, and mechanisms shall provide for, at a minimum:

1. The protection of the health, safety, security and welfare of the school population;

2. The prevention of, intervention in, response to and recovery from emergency and crisis situations;

3. The establishment and maintenance of a climate of civility; and

4. Support services for staff, students and their families.

(b) The chief school administrator shall consult with law enforcement agencies, health and social services provider agencies, emergency management planners, and school and other community resources, as appropriate, in the devel-