ADMINISTRATIVE CODE 2010
CHAPTER 16
PROGRAMS TO SUPPORT STUDENT DEVELOPMENT
CHAPTER TABLE OF CONTENTS

SUBCHAPTER 3. COMPREHENSIVE ALCOHOL, TOBACCO AND OTHER DRUG ABUSE PROGRAMS
6A:16-3.1 Establishment of comprehensive alcohol, tobacco and other drug abuse programs
6A:16-3.2 Confidentiality of student alcohol and other drug information

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
6A:16-4.2 Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse
6A:16-4.3 Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs
6A:16-4.4 Voluntary policy for random testing of student alcohol or other drug use

SUBCHAPTER 5. SCHOOL SAFETY AND SECURITY
6A:16-5.1 School safety and security plans
6A:16-5.2 School violence awareness week
6A:16-5.3 Incident reporting of violence, vandalism and alcohol and other drug abuse
6A:16-5.4 Access to juvenile justice information
6A:16-5.5 Removal of students for firearms offenses
6A:16-5.6 Removal of students for assaults with weapons offenses
6A:16-5.7 Assaults on district board of education members or employees
6A:16-5.8 Remotely activating paging devices

SUBCHAPTER 6. LAW ENFORCEMENT OPERATIONS FOR ALCOHOL, OTHER DRUGS, WEAPONS AND SAFETY
6A:16-6.1 Adoption of policies and procedures
6A:16-6.2 Development and implementation of policies and procedures
6A:16-6.3 Reporting students or staff members to law enforcement authorities
6A:16-6.4 Handling of alcohol or other drugs, firearms and other items
6A:16-6.5 Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs

SUBCHAPTER 7. STUDENT CONDUCT
6A:16-7.1 Code of student conduct
6A:16-7.2 Short-term suspensions
6A:16-7.3 Long-term suspensions
6A:16-7.4 Mandated student removals from general education
6A:16-7.5 Expulsion
6A:16-7.6 Conduct away from school grounds
6A:16-7.7 Staff responsibilities
6A:16-7.8 Attendance
6A:16-7.9 Intimidation, harassment and bullying

6A:16-7.10 Student records and confidentiality

SUBCHAPTER 8. INTERVENTION AND REFERRAL SERVICES
6A:16-8.1 Establishment of intervention and referral services
6A:16-8.2 Functions of intervention and referral services
6A:16-8.3 School staff and community member roles for planning and implementing intervention and referral services

SUBCHAPTER 9. ALTERNATIVE EDUCATION PROGRAMS
6A:16-9.1 Establishment of alternative education programs
6A:16-9.2 Program criteria
6A:16-9.3 Student placements

SUBCHAPTER 10. HOME OR OUT-OF-SCHOOL INSTRUCTION
6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition
6A:16-10.2 Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition

SUBCHAPTER 11. REPORTING POTENTIALLY MISSING OR ABUSED CHILDREN
6A:16-11.1 Adoption of policies and procedures

SUBCHAPTER 3 COMPREHENSIVE ALCOHOL, TOBACCO AND OTHER DRUG ABUSE PROGRAMS

6A:16-3.1 Establishment of comprehensive alcohol, tobacco and other drug abuse programs

(a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment and continuity of care for student alcohol, tobacco and other drug abuse in the public elementary and secondary schools of the district according to the requirements of N.J.S.A. 18A:40A-10.

1. The purpose of the prevention component of the program shall be to:

i. Keep students from using alcohol, tobacco or other drugs;

ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;

iii. Increase the age of onset of students' first use of alcohol, tobacco or other drugs;

iv. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;

v. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;

vi. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and

vii. Actively involve staff, parents and other community members in the development and implementation of prevention program plans.

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 which 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; and

v. Help a student or a student's parents follow through on the recommendations of an evaluation which has positively determined the harmful use of alcohol, tobacco or other drugs by the student or the student's parents.

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 according to the requirements of N.J.S.A. 18A:40A-3 and 15.

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

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

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

7. Each district board of education shall make and enforce regulations to prohibit the smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except as part of a classroom instruction or theatrical production, according to the requirements of N.J.S.A. 26:3D-17.

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:

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 which indicates that 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.

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 discipline of 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 the following substances on school grounds, including on school buses or at school-sponsored functions, according to the requirements of 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 which 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 which 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 the assessment, intervention, referral for evaluation and referral for treatment of alcohol or other drug-affected students, district boards of education shall consult with community agencies licensed by the New Jersey Department of Human Services, Division of Addiction Services, 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.

(c) Each district board of education's policies for students using 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, including on school buses or at school-sponsored functions;
2. Specific procedures, sanctions and due process provisions, consistent with N.J.A.C. 6A:16-7 and 4.4, as appropriate, for violations of the alcohol and other drug policy requiring disciplinary action by the district board of education, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors.

i. The sanctions, with the exception of the sanctions established pursuant to N.J.A.C. 6A:16-4.4, shall be graded according to the severity of the offenses, the nature of the problems and the students' individual needs;

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. The provision of assessment or evaluation services for students who are affected by alcohol or other drug use. These services shall include any of the following:

i. Assessments by an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the New Jersey State Board of Examiners or by an individual who holds one of the following endorsements on the Educational Services Certificate: 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, or to 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; and

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 intervention, referral for evaluation and referral for treatment services shall be provided by an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the State Board of Examiners or by an individual who holds the following endorsement on the Educational Services Certificate: school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services and is trained in alcohol and other drug abuse intervention, assessment, referral for evaluation and referral for treatment skills.

ii. The intervention, referral for evaluation and referral for treatment services shall include any of the following:

(1) Provisions for a program of instruction, counseling and related services provided by the district board of education while a student is receiving medical treatment for a diagnosed alcohol or other drug dependency problem;

(2) Referral to a community agency as defined in (b) above or to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or private practitioners authorized by the appropriate drug and alcohol licensing board;

(3) Provisions for support services for students who are in, or returning from, medical treatment for alcohol and other drug dependency; and

(4) A special class, course or educational program designed to meet the needs of students with alcohol or other drug use problems;

8. Provisions for assisting parents who believe that their child may be involved with alcohol or other drug use, in accordance with the requirements of N.J.S.A. 18A:40A-17(b); and

9. Provisions, pursuant to N.J.A.C. 6A:16-4.3(a)3 and (b)3 and 6.3(a)4, for when law enforcement officials will be contacted to disclose the identities of students reasonably believed to be in possession of a controlled dangerous substance, including anabolic steroids, or related paraphernalia or students reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances, including anabolic steroids.

6A:16-4.2 Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse

(a) Each district board of education shall establish a process for the annual review of the effectiveness of its policies and procedures on student alcohol and other drug abuse. The district board of education shall solicit parent, student and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.

(b) Each district board of education shall annually disseminate to all school staff, students and parents its adopted policies and procedures for implementing N.J.A.C. 6A:16-4.

6A:16-4.3 Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:

1. Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds, including on a school bus or at a school-sponsored function, shall report the matter as soon as possible to the principal and either the certified school nurse, the noncertified nurse, the school physician or the substance awareness coordinator, pursuant to N.J.S.A. 18A:40A-12.

i. In the absence of the principal, his or her designee shall be notified.

ii. In instances where the principal and either the certified school nurse, the noncertified nurse, the school physician or the substance awareness coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.

iii. The referring staff member shall complete the Violence, Vandalism and Substance Abuse Incident Report, in accordance with N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.

2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, the principal or his or her designee shall:

i. Immediately notify the parent and the chief school administrator or his or her designee; and

ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.

3. The chief school administrator or designee may, but need not, disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol or other drugs, pursuant to (a)1 above.

i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of a controlled dangerous substance or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances.

4. The medical examination, pursuant to N.J.A.C. 6A:16-4.3(a)2ii, shall be performed by a physician licensed to practice medicine or osteopathy that is selected by the parent.

i. The school district, in cooperation with medical professionals licensed to practice medicine or osteopathy, shall establish the minimum requirements for the medical examination.

ii. When the medical examination is conducted by a physician selected by the parent, the examination shall be at the expense of the parent and shall not be at the expense of the district board of education.

5. If the physician chosen by the parent is not immediately available, the medical examination shall be conducted by the school physician.

i. If the school physician is not available, the student shall be accompanied by a member of the school staff, designated by the principal, to the emergency room of the nearest hospital for examination.

ii. The student's parent, if available, also shall accompany the student.

iii. When the medical examination is conducted by the school physician or a physician at the emergency room of the nearest hospital, such examination shall be at the expense of the district board of education.

6. Each district board of education shall have a plan in place for the appropriate supervision of the student:

i. While waiting for a parent to take the student to the physician selected by the parent, or while the student is waiting for and receiving the medical examination by the school physician or a physician in an emergency room; and

ii. Provisions shall be made for the appropriate care of the student while awaiting the results of the medical examination.

7. A written report of the medical examination shall be furnished to the parent of the student, the principal and the chief school administrator by the examining physician within 24 hours of the referral of the student for suspected alcohol or other drug use.

i. The school district, in cooperation with the school physician or medical professionals licensed to practice medicine or osteopathy, shall establish the minimum requirements for the medical report.

ii. The findings of the report shall verify whether the student's alcohol or other drug use interferes with his or her physical and mental ability to perform in school.

8. When the medical examination is performed by a physician other than the school physician or a physician at the emergency room of the nearest hospital, the school district shall require the parent to verify within 24 hours of the notification that the student is suspected of alcohol or other drug use that a medical examination was performed in compliance with (a)7i above.

i. The verification shall include, at a minimum, the signature, printed name, address and phone number of the examining physician, the date and time of the medical examination and the date by which the report required by (a)7 above will be provided.

ii. Refusal or failure by a parent to comply with this requirement shall be treated as a policy violation and handled in accordance with (d) below.

9. If the written report of the medical examination is not submitted to the parent, principal and chief school administrator within 24 hours of the referral of the student for suspected alcohol or other drug use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other drug use is received from the physician.

10. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.

11. If there is a positive determination from the medical examination, indicating that the student’s alcohol or other drug use interferes with his or her physical or mental ability to perform in school:

i. The student shall be returned to the care of a parent as soon as possible;

ii. Attendance at school shall not resume until a written report has been submitted to the parent, the principal and chief school administrator from a physician licensed to practice medicine or osteopathy who has examined the student to determine whether alcohol or other drug use interferes with his or her physical or mental ability to perform in school;

(1) The report shall verify that the student's alcohol or other drug use no longer interferes with his or her physical and mental ability to perform in school; and

iii. Removal of a student with a disability shall be made in accordance with N.J.A.C. 6A:14.

12. While the student is at home because of the medical examination or after the student returns to school, an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds either a school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services endorsement on the Educational Services Certificate and is trained to assess alcohol and other drug abuse shall:

i. Conduct an alcohol and other drug assessment of the student and a reasonable investigation of the situation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse as may be appropriate and necessary, for the purpose of making a preliminary determination of the student's need for educational programs, supportive services or treatment which extend beyond the general school program by virtue of the use of alcohol or other drugs by the student.

(1) The findings of the assessment alone shall not be used to prevent a student from attending school; and

ii. Cooperate with community agencies as defined in N.J.A.C. 6A:16-4.1(b) and juvenile justice officials in providing evaluation, referral and continuity of care for alcohol or other drug abuse treatment.

13. While the student is at home because of the medical examination or after his or her return to school, the principal or chief school administrator may recommend or require alcohol and other drug assessment of the student or evaluation by appropriately certified or licensed professionals to make a positive determination of a student's need for programs and services which extend beyond the general school program, as necessary.

i. The findings of these additional evaluations alone shall not be used to prevent a student from attending school.

14. If at any time it is determined that the student's use of alcohol or other drugs presents a danger to the student's health and well-being, an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement or an individual who holds either a school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services endorsement on the Educational Services Certificate and is trained in alcohol and other drug abuse treatment referral shall initiate a referral for alcohol or other drug abuse treatment.

15. The district board of education may provide additional intervention and referral services for the student according to the requirements of N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-8.

(b) In instances involving the suspected use of anabolic steroids, the following shall apply according to the requirements of N.J.S.A. 18A:40A-12(b):

1. Whenever any teaching staff member, certified or non-certified school nurse or other educational personnel shall have reason to believe that a student has used or may be using anabolic steroids, that person shall report the matter as soon as possible to the principal and either the certified or non-certified school nurse, the school physician or the substance awareness coordinator.

i. In the absence of the principal, his or her designee shall be notified.

2. The principal or his or her designee shall immediately notify the parent and the chief school administrator and shall arrange for an examination of the student by a physician licensed to practice medicine or osteopathy selected by the parent.

i. If the physician chosen by the parent is not available to perform the examination, the examination shall be conducted by the school physician or other physician identified by the principal.

ii. The student shall be examined as soon as possible for the purpose of determining whether the student has been using anabolic steroids.

3. The chief school administrator or designee may, but need not, disclose to law enforcement authorities the identity of a student suspected to have used or who may be using anabolic steroids, pursuant to (b)1 above.

i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of anabolic steroids or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities involving anabolic steroids.

4. The examining physician shall provide a written report of the examination to the parent, the principal and the chief school administrator.

5. If it is determined that the student has used anabolic steroids, an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds either the school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services endorsement on the Educational Services Certificate and is trained to assess alcohol and other drug abuse shall interview the student and others, as necessary, for the purpose of determining the extent of the student's involvement with and use of anabolic steroids and the possible need for referral for treatment.

i. To make this determination, the school staff members identified in (b)5 above may conduct a reasonable investigation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse, as may be appropriate and necessary.

6. If the results of a referral for evaluation have positively determined that the student's involvement with and use of anabolic steroids represents a danger to the student's health and well-being, an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds either a school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services endorsement on the Educational Services Certificate and is trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies, as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.

(c) Any educational or non-educational school staff member who in good faith reports a student to the principal or his or her designee in compliance with the provisions of this subsection shall not be liable in civil damages as a result of making such a report, as specified in N.J.S.A. 18A:40A-13 and 14.

(d) Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated as a policy violation of the Compulsory Education Act, pursuant to N.J.S.A. 18A:38-25 and 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11.

(e) Refusal or failure of a student to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated by the school district as a policy violation and handled in accordance with N.J.A.C. 6A:16-4.1(c)2.

6A:16-4.4 Voluntary policy for random testing of student alcohol or other drug use

(a) Each district board of education that chooses to adopt policies and procedures for the random testing of students, pursuant to N.J.S.A. 18A:40A-22 et seq., for the use of controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 2C:35-2 and 24:21- 2, or alcoholic beverages, as defined in N.J.S.A. 33:1-1, shall:

1. Hold a public hearing prior to the adoption of the alcohol or other drug testing policies and procedures.

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

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. Limit the collection of specimens for alcohol or other drug testing to the following persons 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) below:

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

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

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

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

5. 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 it, 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;

6. 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

7. 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 these 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 that 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, at a minimum, shall include:

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;

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

iv. An explanation of how implementation of the random selection process shall be verified;

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

i. The monitoring of the students;

ii. The transportation of the students;

iii. The acquisition and handling of student's specimens;

iv. The chain of custody of student's specimens;

v. The testing and analysis of student's specimens; and

vi. The storage of student's specimens;

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

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

ii. The results of the alcohol or other drug tests;

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

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 the confidentiality and disclosure standards, pursuant to (b)4 above;

6. The parent providing consent to the alcohol or other drug testing, pursuant to (a)7 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 the confidentiality of the notification;

7. The procedures for the reporting of the results of the 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 the test results;

8. The specific actions pursuant to N.J.A.C. 6A:16-7.1, as appropriate, and 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. Any 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's parking permits.

ii. Prior to any disciplinary 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 manufacturer of the laboratory instrument;

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. Any 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's parking permits.

(c) Each district board of education shall provide for the collection and testing of alcohol or other drug specimens by selecting 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 both an onsite licensed collection station and 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)4 above, as appropriate, and (b)3 and 4 above, and contract with a licensed clinical laboratory for the transportation and alcohol or other drug testing of the specimens;

4. Choosing to obtain a State license to operate a clinical laboratory for the 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.

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 public elementary and secondary schools of the school district. The plans and procedures, which shall be in written form, and the mechanisms, at a minimum, shall provide for:

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. Supportive 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 development of the school district's plans, procedures and mechanisms for school safety and security.

1. The plans, procedures and mechanisms shall be consistent with the provisions of this section and the format and content established by the Domestic Security Preparedness Task Force, pursuant to N.J.S.A. App. A:9-64 et seq., and the Commissioner of Education.

2. The plans, procedures and mechanisms shall be reviewed annually and updated, as appropriate.

(c) The district board of education shall disseminate a copy of the school safety and security plan to all district board of education employees.

1. New district board of education employees shall receive a copy of the school safety and security plan, as appropriate, within 60 days of the effective date of their employment.

2. All district board of education employees shall be briefed in writing, as appropriate, regarding updates and changes to the school safety and security plan.

(d) The district board of education shall develop and provide an in-service training program for all district board of education employees to enable them to recognize and appropriately respond to safety and security concerns, including emergencies and crises, consistent with the district board of education's plans, procedures and mechanisms for school safety and security and the provisions of this section.

1. New district board of education employees shall receive the in-service training, as appropriate, within 60 days of the effective date of their employment.

2. The in-service training program for all district board of education employees shall be reviewed annually and updated, as appropriate.

6A:16-5.2 School Violence Awareness Week

(a) Each district board of education shall observe "School Violence Awareness Week" during the week beginning with the third Monday in October of each year by organizing activities to prevent school violence according to N.J.S.A. 18A:36-5.1.

1. The district board of education's activities shall include, but are not limited to, age-appropriate opportunities for student discussion on conflict resolution, issues of student diversity and tolerance.

2. The district board of education shall invite law enforcement personnel to join members of the teaching staff in the discussions.

3. The district board of education shall provide programs for school board employees that are designed to help them recognize warning signs of school violence and to instruct them on recommended conduct during an incident of school violence.

4. The district board of education shall hold an annual public hearing on violence and vandalism pursuant to N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.

(b) The observance of "School Violence Awareness Week," as set forth in (a) above, applies to private schools for the disabled and public college operated programs for the disabled.

1. During "School Violence Awareness Week," private schools for the disabled and public college operated programs for the disabled shall meet with staff and parents to review the incidents of violence and vandalism that occurred in the schools or programs during the previous school year.

6A:16-5.3 Incident reporting of violence, vandalism and alcohol and other drug abuse (a) For purposes of reporting information to the New Jersey Department of Education, pursuant to N.J.S.A.18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence or the possession or distribution of alcohol or other drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, according to the requirements of N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3, shall file a report describing the incident to the school principal, in accordance with N.J.S.A. 18A:17-46.

1. The report shall be on a form adopted for such purposes by the district board of education.

i. The form shall include all of the incident detail and offender and victim information that are reported on the Electronic Violence and Vandalism Reporting System.

(b) For each incident report of violence, vandalism or alcohol or other drug abuse, the principal shall:

1. Review the incident report for accuracy in indicating the incident type, offender information, victim information, student demographics and incident location;

2. Forward a copy of the incident report to the chief school administrator; and

3. Notify the chief school administrator of the action taken regarding the incident.

(c) The district board of education shall not discharge or subject to any manner of discrimination any school employee who files a report pursuant to this section.

(d) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence and vandalism pursuant to N.J.S.A. 18A:17-46.

1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe that the safety of a school staff member is at risk.

(e) The chief school administrator annually shall:

1. Submit a report to the Commissioner of Education of each incident of violence, vandalism and alcohol and other drug abuse within the school district utilizing the Electronic Violence and Vandalism Reporting System (EVVRS);

i. Prior to submission, the chief school administrator shall review the report to verify that it is an accurate and final report of all incidences of violence and vandalism in all o the schools in the school district.

2. Verify that the data entered onto the EVVRS are correct and in accordance with N.J.A.C. 6A:16-7.1(a)6; and

3. Provide for the annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.

(f) At the annual hearing held pursuant to N.J.S.A. 18A:17-46, the chief school administrator shall report to the district board of education all acts of violence and vandalism and incidents of alcohol and other drug abuse that occurred during the previous school year, according to the provisions of N.J.S.A. 18:A 17-46.

1. The proceedings of the public hearing shall be transcribed, kept on file by the district board of education and made available to the public, pursuant to N.J.S.A. 18A:17-46.

2. The district board of education shall file the transcript of the public hearing with the Department of Education by November 1 of each year, pursuant to N.J.S.A. 18A:17.

(g) Each district board of education shall adopt and implement procedures regarding any school employee who knowingly falsifies the annual report on violence and vandalism required under N.J.S.A. 18A:17-46.

1. Whenever it is alleged that a school employee has knowingly falsified the annual report, the district board of education shall make a determination regarding whether the employee committed the act.

2. Any employee alleged to have knowingly falsified the annual report shall be notified in writing of such allegation and shall be entitled to a hearing before the district board of education.

i. The hearing shall take place within 30 business days of the date on which the employee is notified of the allegation;

ii. The employee shall be entitled to be represented by a person of his or her choosing and to present witnesses on his or her behalf; and

iii. The district board of education shall notify the employee of its determination in writing within five school days of the hearing.

3. Upon determination by the district board of education that an employee has knowingly falsified the annual report, it shall take one or more of the following actions:

i. Impose minor discipline on a tenured or non-tenured employee, notwithstanding any other law to the contrary and if negotiated with the majority representative of the employees in the appropriate collective bargaining unit;

ii. Withhold a tenured or non-tenured employee's increment for predominately disciplinary reasons, which shall be subject to the grievance procedures established pursuant to law and shall be subject to the grievance procedures of section 8 of N.J.S.A. 34:13A-29;

iii. File tenure charges with the secretary of the district board of education in writing and with a written statement of evidence under oath to support such charges;

iv. Terminate employment for an employee;

(1) For tenured employees, the termination shall be in accordance with the outcome of the proceedings in (g)3iii above; or

v. Impose such other disciplinary sanctions as may be authorized by law.

4. Any action taken by a district board of education pursuant to (g)3 above, shall be based on its consideration of:

i. The nature of the conduct;

ii. The circumstances under which it occurred; and

iii. The employee's prior employment record.

5. Any employee having been found responsible for the falsification of the annual report by the district board of education shall have the right to:

i. File a grievance under their respective bargaining agreements;

ii. Appeal the district board of education's determination to the Commissioner of Education in accordance with N.J.A.C. 6A:3-1.3 through 1.17 and subsequently to the State Board of Education; or

iii. Appeal the decision to the Superior Court of New Jersey.

6. The availability of appeal options shall be based upon the action taken by the district board of education.

(h) Private schools for the disabled and public college operated programs for the disabled shall take action regarding any school employee who knowingly falsifies the annual report on violence, vandalism and alcohol or other drug abuse required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth in (g) above.

(i) Each district board of education shall submit and implement corrective action plans for high incidences of violence, vandalism or alcohol or other drug abuse upon notification by the Commissioner of Education.

6A:16-5.4 Access to juvenile justice information

(a) Each district board of education shall adopt and implement policies and procedures protecting access to information related to juvenile justice proceedings, according to the requirements of N.J.S.A. 2A:4A-60.

6A:16-5.5 Removal of students for firearms offenses

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, according to the requirements of the Zero Tolerance for Guns Act, pursuant to N.J.S.A. 18A:37-7 through 12. These policies and procedures shall apply to:

1. A student who is convicted or adjudicated delinquent for possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function;
2. A student who is convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds, including on a school bus or at a school-sponsored function; and
3. A student who is found knowingly in possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function.

(b) Each district board of education shall immediately remove any student, other than a student with a disability, as set forth in (a) above, from the school's general education program for a period of not less than one calendar year.

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.
    i. The chief school administrator shall develop and maintain a written record of any case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner of Education upon request of the Commissioner.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) A district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;
2. Isolate the student and place the student under the supervision of school staff until such time as the student's parent or a law enforcement official takes custody of the student;
3. Immediately report the removal of the student to the chief school administrator;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
    i. The removal action;
    ii. The law enforcement notification;
    iii. The change of custody, if it occurs; and
    iv. The general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6 or, in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and 6A:16-7.2 through 7.6.

(e) Any student, other than a student with a disability, removed from the general education program pursuant to this section shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) Any student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.2 through 7.6.

(h) If it is found that the removed student did not commit the offenses in (a) and (c) above, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education removal decision;
3. The results of any relevant testing, assessment or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, so long as the district board of education adopts appropriate safeguards to ensure student safety.

1. All students must obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.

i. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

6A:16-5.6 Removal of students for assaults with weapons offenses

(a) Each district board of education shall adopt and implement policies and procedures regarding any student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, those 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) and 18 U.S.C. § 921, upon a teacher, administrator, board member, other employee of a school board or another student on any school grounds, including on a school bus or at a school-sponsored function, according to the requirements of N.J.S.A. 18A:37-2.2 through 2.5.

(b) Any student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) District boards of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;
2. Isolate the student and place the student under the supervision of school staff until such time as the student's parent or a law enforcement official takes custody of the student;
3. Immediately report the removal of the student to the school district's chief school administrator;
4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
5. Notify the student's parent of the following information:
   i. The removal action;
   ii. The law enforcement notification;
   iii. The change of custody, if it occurs; and
   iv. The general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.6 or in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and 6A:16-7.2 through 7.6.

(e) Any student, other than a student with a disability, removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C.6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education, pursuant to the requirements set forth at N.J.A.C. 6A:16-7.2 and 7.3.

(h) If it is found that the removed student did not commit these offenses, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on when the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program or receive home or other out-of- school instruction based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education removal decision;
3. The results of any relevant testing, assessment or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to any student who has obtained the written authorization of the chief school administrator to lawfully possess a firearm or other weapon while participating in a school-sponsored function.

1. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident and the circumstances surrounding the removal of students pursuant to (b) above

utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

6A:16-5.7 Assaults on district board of education members or employees

(a) Each district board of education shall adopt and implement policies and procedures regarding any student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, board member or other employee of a school board acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to a public education institution, according to the requirements of N.J.S.A. 18A:37-2.1.

(b) Any student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.6.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) Any student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) above;
2. Isolate the student and place the student under the supervision of school staff until such time as the student's parent or an appropriate agency takes custody of the student;
3. Immediately report the removal of the student to the district's chief school administrator; and
4. Notify the student's parent of the removal action and the student's due process rights.

(e) The district board of education shall provide due process proceedings for a general education student in accordance with N.J.A.C. 6A:16-7.2 through 7.3 and 7.5 through 7.6, or in the case of a student with a disability, in accordance with N.J.A.C. 6A:14-2.7 through 2.8.

(f) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

6A:16-5.8 Remotely activating paging devices

(a) Each district board of education shall adopt and implement policies and procedures regarding the prohibition of remotely activating paging devices, according to the requirements of N.J.S.A. 2C:33-19.

(b) Without the express written permission of the school board, the chief school administrator or the school principal, students are prohibited from bringing or possessing any remotely activating paging device on any school grounds, including on a school bus or at a school-sponsored function, at any time and regardless of whether school is in session or other persons are present.

(c) School authorities shall not grant permission for a student to bring or possess a remotely activating paging device on any school grounds, including on a school bus or at a school-sponsored function unless and until a student shall have established to the satisfaction of the school authorities a reasonable basis for the possession of the device.

(d) The principal or his or her designee shall immediately notify the chief school administrator and the appropriate criminal justice or juvenile justice agency of a violation of this section.
(e) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

SUBCHAPTER 6. LAW ENFORCEMENT OPERATIONS FOR ALCOHOL, OTHER DRUGS, WEAPONS AND SAFETY

6A:16-6.1 Adoption of policies and procedures

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution and disposition of the following: i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;

ii. Drug paraphernalia, as defined in N.J.S.A. 2C:36-1;

iii. Alcoholic beverages;

iv. Firearms, as defined in subsection f of N.J.S.A. 2C:39-1f; and

v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1r.

2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrest procedures and undercover school operations.

6A:16-6.2 Development and implementation of policies and procedures

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented and revised, as necessary, in consultation with the county prosecutor and such other law enforcement officials as may be designated by the county prosecutor;

2. Reviewed and approved by the county superintendent;

3. Made available annually to all school staff, students and parents;

4. Consistent with reporting, notification and examination procedures of students suspected of being under the influence of alcohol and other drugs according to the requirements of N.J.A.C. 6A:16-4.3; and

5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. The designation of liaisons to law enforcement agencies and the description of their roles and responsibilities by the chief school administrator;

2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, including on a school bus or at a school-sponsored function, for the purpose of conducting law enforcement investigations, searches, seizures and arrests;

3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children;

4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds, including on a school bus or at a school-sponsored function;

5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property and their personal effects.

i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O., 469 U.S. 325* (1985).

ii. Any question concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.

iii. School officials may request that law enforcement authorities assume responsibility for conducting any search or seizure.

iv. No school staff member shall impede any law enforcement officer engaged in a lawful search, seizure or arrest whether pursuant to a warrant or otherwise.

v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting any search or seizure.

vi. All inspections of lockers, desks or other objects or personal property on school grounds, including on a school bus or at a school-sponsored function, involving the use of law enforcement drug-detection canines only may be undertaken with the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.

vii. Any questions concerning the legality of any contemplated or ongoing search, seizure or arrest conducted by a law enforcement officer on school grounds, including on a school bus or at a school-sponsored function, shall be directed to the county prosecutor or, in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice designee in the New Jersey Department of Law and Public Safety, to the assigned Assistant Attorney General;

6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

7. Procedures for planning, approving and conducting undercover school operations.

i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve such undercover operations without prior notification to the district board of education.

ii. All information concerning requests to undertake any undercover school operation, information supplied by law enforcement authorities to justify or explain the need for and of a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.

iii. The chief school administrator and principal shall not divulge information concerning any undercover school operation to any person without the prior express approval of the county prosecutor or designee.

iv. In the event that the chief school administrator, principal or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation subsequently learns of any information which suggests that the true identity of the undercover officer has been revealed, or that any person has questioned the identity or status of the undercover officer as a bona fide member of the school community, or that the integrity of the undercover school operation has been in any other way compromised, such information shall be immediately communicated to the county prosecutor or designee;

8. The procedures for and responsibilities of staff concerning the safe and proper handling of any seized controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon, and the prompt delivery of such items to appropriate law enforcement authorities in accordance with this subchapter;

9. The procedures for and responsibilities of staff in notifying authorities of any suspected violation of any laws prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
10. Provisions for requesting uniformed police attendance at extracurricular school events;
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating any law prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
12. Provisions for the in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the education and law enforcement agencies;
13. An agreement or memorandum of understanding with appropriate law enforcement authorities.

i. The agreement or memorandum of understanding shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the Attorney General and the Commissioner of Education.

ii. The agreement or memorandum of understanding shall define the reciprocal rights and obligations of students, parents, school staff and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.

iii. Copies of all agreements or memoranda of understanding entered into with law enforcement authorities shall be approved by the district board of education and shall be submitted to and approved by the county prosecutor and county superintendent of schools.

14. Provisions for resolving disputes concerning law enforcement activities occurring on school grounds, including on a school bus or at a school-sponsored function; and
15. An annual process for the local chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the agreement or memorandum of understanding, and to review the effectiveness of policies and procedures implemented pursuant to the provisions of this subchapter.

i. The annual review shall include input from the county superintendent, community members and meeting(s) with the county prosecutor and such other law enforcement officials designated by the county prosecutor.

ii. The memorandum of understanding may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the Attorney General and the Commissioner of Education.

6A:16-6.3 Reporting students or staff members to law enforcement authorities

(a) Subject to the provisions of N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic

steroids, or drug paraphernalia, shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee shall not disclose, however, the identity of any student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, by the principal or teaching staff member, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may, but need not, disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided that the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, and is not reasonably believed to be involved or implicated in drug distribution activities.

(b) Whenever any school employee develops reason to believe that a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C.§ 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r) or not, except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds, including on a school bus or to a school-sponsored function, or that any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school grounds, including on a school bus or at a school-sponsored function, or that any student or other person has committed an offense with or while in possession of a firearm, whether or not such offense was committed on school grounds, including on a school bus or at a school-sponsored function, or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify, as soon as possible, the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a student has threatened, is planning or otherwise intends to cause

death, serious bodily injury or significant bodily injury to another person under circumstances in which a reasonable person would believe that the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

(d) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, including on a school bus or at a school-sponsored function, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the building principal and chief school administrator when in the course of their employment they develop reason to believe that a hate crime has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function, or has been or is about to be committed by any student, whether on or off school grounds, including on a school bus or at a school-sponsored function, and whether or not such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a hate crime, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during operating school hours.

1. The designated school official, as defined by (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described above.

2. The designated school official, as defined by (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe that a hate crime that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe that a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

6A:16-6.4 Handling of alcohol or other drugs, firearms and other items

(a) Any school employee who seizes or discovers any alcohol or other drug or item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over the alcohol or other drug or item to the principal or designee.

1. The principal or designee shall immediately notify the chief school administrator or his or her designee who in turn shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The school employee, principal or designee shall safeguard the alcohol or other drug or paraphernalia against further use or destruction and shall secure the alcohol or other drug or paraphernalia until such time as the alcohol or other drug or paraphernalia can be turned over to the county prosecutor or designee.

3. The principal or designee shall provide to the county prosecutor or his or her designee all information concerning the manner in which the alcohol or other drug or paraphernalia was discovered or seized, including:

i. The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and

ii. The identity of any student or staff member believed to have been in possession of the substance or paraphernalia.

4. The principal or designee shall not disclose the identity of any student or staff member who voluntarily and on his or her own initiative turned over the alcohol or other drug or paraphernalia to a school employee, provided that there is reason to believe that the student

or staff member was involved with the alcohol or other drug or paraphernalia for the purpose of personal use, not distribution activities, and further provided that the student or staff member agrees to participate in an appropriate treatment or counseling program.

i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia by the principal or teaching staff member shall not constitute a voluntary self-initiated request for counseling and treatment.

(b) Whenever a school employee seizes or comes upon any firearm or dangerous weapon, school officials shall:

1. In the case of a firearm, immediately advise the county prosecutor or appropriate law enforcement official and secure the firearm pending the response by law enforcement to retrieve and take custody of the firearm; and

2. In the case of a dangerous weapon other than a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the dangerous weapon pending the response by law enforcement to retrieve and take custody of the dangerous weapon.

(c) School employees having custody of a firearm or dangerous weapon shall take reasonable precautions, according to district board of education procedures, to prevent the theft, destruction or unlawful use of the firearm or dangerous weapon by any person.

6A:16-6.5 Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs

(a) All information concerning a student's or staff member's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential, according to the requirements of 42 CFR Part 2, N.J.S.A. 18A:40A-7.1 and 7.2 and N.J.A.C. 6A:16-3.2.

(b) Nothing in this subchapter shall be construed in any way to authorize or require the transmittal of any information or records which are in the possession of a alcohol or other drug abuse counseling or treatment program.

(c) The principal or designee shall not disclose to law enforcement officials or to any person other than a member of the local school district's comprehensive alcohol, tobacco and other drug abuse program that a student or staff member has received or is receiving services through the local school district's comprehensive alcohol, tobacco and other drug abuse program, nor shall the principal or designee disclose any information, including the student's or staff member's identity or information about illegal activity, where such information was learned in the course of or as a result of services provided through the local school district's comprehensive alcohol, tobacco and other drug abuse program.

(d) Nothing in this section shall be construed to preclude the disclosure of information about illegal activity which was learned by any school employee outside of the local school district's comprehensive alcohol, tobacco and other drug abuse program.

1. Any such information about illegal activity shall be reported according to the requirements of N.J.A.C. 6A:16-6.3 and 6.4.

SUBCHAPTER 7. STUDENT CONDUCT

6A:16-7.1 Code of student conduct

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored

functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

ii. Associated school responses to the violations of the student behavioral expectations;

iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

(1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

(2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

7. For students with disabilities, subject to Individualized Education Programs in accordance with 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, and accommodation plans under 29 U.S.C. § § 794 and 705(20), the code of student conduct shall be implemented in accordance with the components of the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety and social and emotional well-being of students;

2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;

3. Promote achievement of high academic standards;

4. Prevent the occurrence of problem behaviors;

5. Establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and

6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of the offenses, the developmental ages of the student offenders and students' histories of inappropriate behaviors in accordance with 7.2 through 7.5, and 7.6 as appropriate.

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

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

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

3. A description of students' rights to:

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

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

iii. Attendance in safe and secure school environments;

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

v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17, N.J.A.C. 6A:4 and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and 7.2 through 7.6;

vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, 7.2, 7.3 and 7.8; and

vii. Protections pursuant to 20 U.S.C. § 1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, N.J.A.C. 6A:32 Student Records; as well as other existing Federal and State laws pertaining to student protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education, including:

i. Positive reinforcement for good conduct and academic success;

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

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

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

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

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

ii. Be consistent with other responses, pursuant to N.J.A.C. 6A: 16-5.5, N.J.A.C. 6A:16-5.6 and N.J.A.C. 6A:16-5.7 above;

iii. Provide for the equitable application of the code of student conduct without regard to 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, pursuant to N.J.S.A. 10:5; and

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

6. A policy and procedures regarding the attendance of students in accordance with N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1 and 6A:16-7.8;

7. A policy and procedures regarding intimidation, harassment and bullying in accordance with N.J.S.A. 18A:37-13 et seq. and N.J.A.C. 6A:16-7.9; and

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

(d) The code of student conduct shall include the due process procedures and policies for students and their families and shall include the provisions set forth at N.J.A.C. 6A:16-7.2 through 7.6.

(e) A district board of education may deny participation in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.

6A:16-7.2 Short-term suspensions

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for 10 consecutive school days or fewer by providing for the following:

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

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

2. An informal hearing prior to the suspension in which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the short-term suspension and provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5:

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

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

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

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

3. Oral or written notification to the student's parents of the student's removal from the student's educational program prior to the end of the school day on which the school administrator makes the decision to suspend the student, which shall include an explanation of:

i. The specific charges;

ii The facts on which the charges are based;

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

iv. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3, and 7.2 through 7.6; and

v. The terms and conditions of the suspension.

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

5. Academic instruction either in school or out of school that addresses the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.

i. The instruction shall be provided within five school days of the suspension.

ii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program in accordance with N.J.A.C. 6A:14.

iii. At the completion of a short-term suspension, the district board of education shall return the general education student to the general education program.

(b) The suspending principal shall immediately report the suspension to the chief school administrator, who is required to report it to the district board of education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.

(c) For a student with a disability, the provisions set forth in this section shall be provided in addition to all procedural protections set forth in N.J.A.C. 6A:14.

6A:16-7.3 Long-term suspensions

(a) In each instance of a long-term suspension, the district board of education shall assure the rights of a student suspended for more than 10 consecutive school days by providing the following:

1. Immediate notification to the student of the charges, prior to the student's removal from school;

2. An informal hearing prior to the suspension in which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the long-term suspension and the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;

3. Immediate notification to the student's parents of the student's removal from school;

4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;

5. Written notification to the parents by the chief school administrator or his or her designee within two school days of the initiation of the suspension, stating:

i. The specific charges;

ii. The facts on which the charges are based;

iii. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.3 through 7.6; and

iv. That further engagement by the student in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to expel the student is made by the district board of education, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.5.

(1) The district board of education shall request written acknowledgement of the notification of the provisions of (a)4iv above from the parents and the student subsequent to the removal from the student's educational program, pursuant to this section.

6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to (a)10 below;

7. A student with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal regulations incorporated by reference therein;
8. Information on the right of the student to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)8;
9. Educational services, either in school 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, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.

i. The services shall be provided within five school days of the suspension.

ii. The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student, at a minimum, based on the following criteria:

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

(2) The results of any relevant testing, assessments or evaluations of the student;

(3) The student's academic, health and behavioral records;

(4) The recommendation of the chief school administrator, principal or other relevant school or community resource;

(5) Considerations of parental input; or

(6) Consultation with the Intervention and Referral Services team, in accordance with N.J.A.C. 6A:16-8, as appropriate.

iii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program, in accordance with N.J.A.C. 6A:14;

10. A formal hearing before the district board of education, which, at a minimum, shall:

i. Be conducted by the district board of education or delegated by the board to a board committee, a school administrator or an impartial hearing officer for the purpose of determining facts or making recommendations.

(1) The district board of education as a whole shall receive and consider either a transcript or detailed report on such hearing before taking final action;

ii. Include the opportunity for the student to:

(1) Confront and cross-examine witnesses, when there is a question of fact; and

(2) Present his or her own defense and produce oral testimony or written supporting affidavits.

iii. Take place no later than 30 calendar days following the day the student is suspended from the general education program; and

iv. Result in a decision by the district board of education, which at a minimum, shall be based on the preponderance of competent and credible evidence;

11. A written statement to the student's parents of the district board of education's decision within five school days after the close of the hearing that includes, at a minimum:

i. The charges considered;

ii. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the district board of education at the hearing;

iii. Factual findings relative to each charge and the district board of education's determination of each charge;

iv. Identification of the educational services to be provided to the student, pursuant to (a)9 above;

v. The terms and conditions of the suspension; and

vi. The right to appeal the district board of education's decision regarding the student's general education program to the Commissioner of Education in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17;

12. Immediate return to the general education program if at any time it is found that the general education student did not commit the offense;

13. For a student with a disability found not to have committed the offense, the student's program shall be determined in accordance with the provisions of N.J.A.C. 6A:14; and

14. At the completion of a long-term suspension, the district board of education shall return the general education student to the general education program.

(b) Any appeal of the district board of education's decision regarding the general education student's program shall be made to the Commissioner of Education, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(c) Suspension of general education students shall not be continued beyond the district board of education's second regular meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.

1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:

i. The nature and severity of the offense;

ii. The district board of education removal decision;

iii. The results of any relevant testing, assessments or evaluations of the student; and

iv. The recommendation of the chief school administrator, principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed.

2. The district board of education shall develop and adopt policies and procedures providing for action on the continuation of student suspensions in the event of cancellation of the first or second regular board meeting pursuant to N.J.S.A. 18A:37-4 and 5.

(d) When the district board of education votes to continue the suspension of a general education student, the board of education, in consultation with the chief school administrator, shall review the case at each subsequent district board of education meeting for the purpose of determining:

1. The status of the student's suspension;

2. The appropriateness of the current educational program for the suspended student; and

3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.

(e) When the district board of education votes to continue the suspension of a general education student, the district board of education, in consultation with the chief school administrator, shall make the final determination on:

1. When the student is prepared to return to the general education program;

2. Whether the student shall remain in an alternative education program or receive home or other in-school or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or

3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.5.

(f) The district board of education shall provide a general education student suspended under this section with an appropriate educational program or appropriate educational services, based on the criteria set forth under (a)9ii above, until the student graduates from high school or reaches the age of 20, whichever comes first.

1. The educational program shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and N.J.A.C. 6A:14-2 and 4.3, whichever is applicable; or

2. The educational services provided, either in school or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.

(g) For a student with a disability who receives a long-term suspension, the district board of education shall proceed in accordance with N.J.A.C. 6A:14 in determining or changing the student's educational placement to an interim or alternate educational setting.

1. All procedural protections set forth in N.J.A.C. 6A:14 and this section shall be afforded to each student with a disability who is subjected to a long-term suspension.

2. All decisions concerning the student's educational program or placement shall be made by the student's Individualized Education Program team.

3. The provisions of (b) through (f) above shall not apply to students with disabilities.

6A:16-7.4 Mandated student removals from general education

(a) The district board of education shall follow N.J.A.C 6A:16-5.5 for student removals for firearms offenses.

(b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses.

(c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.

6A:16-7.5 Expulsions

(a) A district board of education may expel, that is discontinue the educational services or discontinue payment of educational services for, a general education student from school, pursuant to N.J.S.A. 18A:37-2, only after the district board of education has provided the following:

1. The procedural due process rights set forth at N.J.A.C. 6A:16-7.3 and 7.4, subsequent to a long-term suspension, pursuant to N.J.A.C. 6A:16-7.3; and

2. An appropriate educational program or appropriate educational services, based on the criteria set forth under N.J.A.C. 6A:16-7.3(f).

i. The educational program shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14; whichever are applicable; or

ii. The educational services provided, either in school or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.

(b) Any appeal of the district board of education's decision regarding the cessation of the student's general education program shall be made to the Commissioner of Education in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

1. A district board of education shall continue to provide an appropriate educational program or appropriate educational services, in accordance with N.J.A.C. 6A:16-7.5(a)2, until a final determination has been made on the appeal of the district board of education's action to expel a student.

(c) An expulsion of a student with a disability from a receiving school shall be handled in accordance with N.J.A.C. 6A:14.

6A:16-7.6 Conduct away from school grounds

(a) School authorities have the right to impose a consequence on a student for conduct away from school grounds, including on a school bus or at a school-sponsored function, that is consistent with the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1.

1. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2.

2. This authority shall be exercised only when the conduct which is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school.

3. The consequence pursuant to (a) above shall be handled in accordance with the district board of education approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, and as appropriate, in accordance with N.J.A.C. 6A:16-7.2, 7.3 or 7.5.

6A:16-7.7 Staff responsibilities

(a) District boards of education shall provide for the equitable application of the code of student conduct.

(b) District boards of education shall delineate the roles and responsibilities of each staff member in the implementation of the code of student conduct.

(c) District boards of education shall provide to all district board of education employees training annually on the code of student conduct, which shall include training on the prevention, intervention and remediation of student conduct in violation of the district board of education's code of student conduct.

1. Information on the code of student conduct shall be incorporated into the orientation program for new employees.

6A:16-7.8 Attendance

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

1. The expectations and consequences regarding the timely arrival of students to school and classes;

2. The expectations and consequences regarding attendance at school and classes;

3. A definition of unexcused absence, for the purpose of this section, that, at a minimum, shall be based on the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3, and the following considerations:

i. Family illness or death;

ii. Educational opportunities;

iii. Written parental permission;

iv. Excused religious observances, pursuant to N.J.S.A. 18A:36-14 through 16;

v. Where appropriate, Individualized Education Programs pursuant to 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, accommodation plans under 29 U.S.C. § § 794 and 705(20), and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.3(b)2ix; and

4. School staff responses for unexcused absences:

i. For up to four cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

(2) Conduct an investigation to determine the cause of each unexcused absence, including contact with the student's parents;

(3) Develop an action plan in consultation with the student's parents designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;

(4) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C 6A:16-11, if a potential missing or abused child situation is detected; and

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

ii. For between five and nine cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

(2) Conduct a follow-up investigation, including contact with the student's parents, to determine the cause of each unexcused absence;

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

(4) Revise the action plan, as needed, to identify patterns of unexcused absences and establish outcomes based upon the student's needs and specify the interventions for achieving the outcomes, supporting the student's return to school and regular attendance that may include any or all of the following:

(A) Refer or consult with the building's Intervention and Referral Services team, pursuant to N.J.A.C. 6A:16-8;

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

(C) Consider an alternate educational placement;

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

(E) Refer to the court program designated by the New Jersey Administrative Office of the Courts; and

(F) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11, if a potential missing or abused child situation is detected; and

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

iii. For cumulative unexcused absences of 10 or more, the student, between the ages of six and 16, is truant, pursuant to N.J.S.A. 18A:38-27, and the school district shall:

(1) Make a mandatory referral to the court program required by the New Jersey Administrative Office of the Courts;

(2) Make a reasonable attempt to notify the student's parents of the mandatory referral;

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

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

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

(b) For students with disabilities, the attendance plan and punitive and remedial procedures set forth therein shall be applied, where applicable, in accordance with the students' Individualized Education Programs, pursuant to 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plans under 29 U.S.C. § § 794 and 705(20); and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.3(b)2ix.

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

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

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

(d) The chief school administrator shall submit annually a report to the Commissioner of Education containing information on student attendance, including, but not limited to, the district board of education's implementation of each of the requirements pursuant to this section.

6A:16-7.9 Intimidation, harassment and bullying

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

1. Each district board of education shall develop the policy in consultation with parents and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees,

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

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

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

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

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

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

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

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

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

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

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

vii. A procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report anonymously an act of harassment, intimidation or bullying;

(1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;

viii. A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(1) Reports and complaints include, but are not limited to, oral reports, written reports or electronic reports;

ix. The range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified.

(1) The responses, at a minimum, shall include support for victims of harassment, intimidation or bullying and corrective actions for documented systemic problems related to harassment, intimidation or bullying;

x. A statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

xi. Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying; and

xii. A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

(1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district.

(b) A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

(c) A school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a) above.

1. A school employee who promptly reports an incident of harassment, intimidation or bullying to the appropriate school official designated by the district board of education's policy, and who makes this report in compliance with the procedures set forth in the district board of education's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16(4)c.

(d) The district board of education shall:

1. Annually review the training needs of school district staff for the effective implementation of the harassment, intimidation and bullying policies, procedures, programs and initiatives of the district board of education and implement locally determined staff training programs consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)3, as determined appropriate by the district board of education.

i. Information regarding the district board of education's policy against harassment, intimidation, or bullying shall be incorporated into the school district's employee training program;

2. Develop a process for annually discussing the school district's harassment, intimidation or bullying policy with students; and

3. Annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education.

i. The programs or other services shall be planned in consultation with parents, students and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators, as appropriate.

(e) These requirements are promulgated pursuant to N.J.S.A. 18A:37-13 through 18 and shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal.

6A:16-7.10 Student records and confidentiality

(a) When a student transfers to a public school district from another public school district, all information in the student's record related to 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:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district, in accordance with the provisions of N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5(f)10iii through v.

1. The record shall be provided within two weeks of the date that the student enrolls in the receiving school district.

2. Written consent of the parent or adult student shall not be required as a condition of the transfer of this information.

i. Written notice of the transfer shall be provided to the parent or the adult student.

(b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records, with respect to suspensions or expulsions, shall be provided by the public school district of residence to the private school upon written request from the private school, in the same manner as such records would be provided by a public school district of residence to a public school district, pursuant to 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act.

(c) A district board of education shall not use a student's past offenses on record to discriminate against that student.

(d) All records maintained in this subchapter shall conform with the requirements set forth at 20 U.S.C. §1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

SUBCHAPTER 8. INTERVENTION AND REFERRAL SERVICES

6A:16-8.1 Establishment of intervention and referral services

(a) District boards of education shall establish and implement a coordinated system in each school building in which general education students are served, for the planning and delivery of intervention

and referral services that are designed to assist students who are experiencing learning, behavior or health difficulties and to assist staff who have difficulties in addressing students' learning, behavior or health needs. District boards of education shall choose the appropriate multidisciplinary team approach for planning and delivering the services required under this subchapter.

1. The intervention and referral services shall be provided to aid students in the general education program; and

2. The intervention and referral services, pursuant to N.J.S.A. 18A:46-18.1 et seq. and this subchapter, may be provided for students who have been determined to be in need of special education programs and services.

i. The intervention and referral services provided for students who have been determined to be in need of special education programs and services shall be coordinated with the student's Individualized Education Program team, as appropriate.

6A:16-8.2 Functions of intervention and referral services

(a) The functions of the system of intervention and referral services in each school building shall be to:

1. Identify learning, behavior and health difficulties of students;

2. Collect thorough information on the identified learning, behavior and health difficulties;

3. Develop and implement action plans which provide for appropriate school or community interventions or referrals to school and community resources, based on the collected data and desired outcomes for the identified learning, behavior and health difficulties;

4. Provide support, guidance and professional development to school staff who identify learning, behavior and health difficulties;

5. Provide support, guidance and professional development to school staff who participate in each building's system for planning and providing intervention and referral services;

6. Actively involve parents or guardians in the development and implementation of intervention and referral services action plans;

7. Coordinate the access to and delivery of school resources and services for achieving the outcomes identified in the intervention and referral services action plans;

8. Coordinate the services of community-based social and health provider agencies and other community resources for achieving the outcomes identified in the intervention and referral services action plans;

9. Maintain records of all requests for assistance and all intervention and referral services action plans and all related student information, according to the requirements of 20 U.S.C. § 1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

10. Review and assess the effectiveness of the provisions of each intervention and referral services action plan in achieving the outcomes identified in each action plan and modify each action plan to achieve the outcomes, as appropriate; and

11. At a minimum, annually review the intervention and referral services action plans and the actions taken as a result of the building's system of intervention and referral services and make recommendations to the principal for improving school programs and services, as appropriate.

6A:16-8.3 School staff and community member roles for planning and implementing intervention and referral services

(a) The district board of education shall establish written guidelines for the involvement of school staff and community members in each building's system of intervention and referral services, which shall, at a minimum:

1. Identify the roles and responsibilities of the building staff who participate in each building's coordinated system for planning and providing intervention and referral services, including the roles and responsibilities of staff members who identify learning, behavior or health difficulties;
2. Identify the roles and responsibilities of other school district staff for aiding in the development and implementation of intervention and referral services action plans; and
3. Identify the roles, responsibilities and parameters for the participation of community members for aiding in the development and implementation of intervention and referral services action plans.

SUBCHAPTER 9. ALTERNATIVE EDUCATION PROGRAMS

6A:16-9.1 Establishment of alternative education programs

(a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program.

(b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education.

1. The agency, pursuant to (b) above, shall submit an initial or renewal application, as appropriate, to the designated county office of education, in accordance with the format prescribed by the Commissioner of Education.
2. Each alternative education program established by an agency, pursuant to (b) above, shall be separate and distinct from the already existing programs operated by these agencies.
3. Annually, each agency, pursuant to (b) above, operating an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall obtain certificates of fire inspection and, if applicable, health, sewerage plant and health, ventilation, and air conditioning (HVAC) inspections.
    i. These certificates shall be maintained and available upon request for review by the Department of Education.

6A:16-9.2 Program criteria

(a) Each alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall fulfill the following program criteria for both high school and middle school programs, unless otherwise noted:

1. A maximum student–teacher ratio of 12:1 for high school programs shall be maintained;
2. A maximum student–teacher ratio of 10:1 for middle school programs shall be maintained;
3. An Individualized Program Plan (IPP) shall be developed for each general education student enrolled in the program.
    i. The IPP shall be developed by the school district in which the student is enrolled, in consultation with the student's parent and the receiving school district, pursuant to N.J.A.C. 6A:16-9.1(a), or other agency, pursuant to N.J.A.C. 6A:16-9.1(b), as appropriate.

ii. The IPP shall be developed by a multidisciplinary team of professionals with knowledge of the student's educational, behavioral, emotional, social and health needs.

iii. The IPP shall identify the appropriate instructional and support services for addressing the student's identified needs.

iv. The IPP shall be developed in accordance with the format prescribed by the Commissioner of Education and implemented within 30 calendar days of the student's placement in the alternative education program.

(1) The IPP may, but need not, be developed prior to the student's placement.

v. A multidisciplinary team shall review and, as appropriate, revise the IPP prior to the completion of the student's anticipated enrollment in the alternative education program or prior to the end of the school year, whichever occurs first.

(1) The multidisciplinary team shall review and revise the IPP, as needed, at any time during the student's enrollment in the alternative education program.

(2) The multidisciplinary team that reviews the IPP shall include staff from the sending school and the alternative education program who have knowledge of the student's educational, behavioral, emotional, social and health needs.

(3) The student's parent shall be advised of revisions to the IPP.

4. For a student with a disability, the alternative education program shall be consistent with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14, Special Education.

5. Individualized instruction to students shall address the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1;

6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. 6A:9-3.3;

7. Compliance with attendance policies, pursuant to N.J.A.C. 6A:16-7.8 and 6A:32-8.3, shall be required;

8. Academic instruction sufficient to fulfill graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, shall be provided to high school students;

9. Comprehensive support services and programs shall address each student's health, social and emotional development and behavior;

10. Case management services including, but not limited to, monitoring and evaluating student progress and coordinating instructional and support services, pursuant to (a)5, 8, and 9 above, shall be provided;

11. Services to facilitate the transition of students returning to the general or special education program shall be provided; and

12. A minimum student enrollment period of not less than two complete marking periods shall be required.

i. If the student is enrolled with less than two complete marking periods remaining prior to the end of the school year, the decision regarding continued placement in the alternative education program shall be made in accordance with N.J.A.C. 6A:16-9.3(a).

ii. If the student is removed from the general education program and placed in an alternative education program as a result of a firearm or assault with a weapon offense, the chief school administrator may modify the term of removal or placement on a case-by-case basis, pursuant to N.J.A.C. 6A:16-5.5(b)1 and 5.6(b)1.

iii. For the student with a disability, the enrollment period shall be determined by appropriate school personnel in accordance with the provisions of N.J.A.C. 6A:14,

Special Education, and the Individuals with Disabilities Education Act of 2004, 20 U.S.C. § § 1400 et seq.

6A:16-9.3 Student placements

(a) Student placement in an alternative education program, pursuant to N.J.A.C. 6A:16-1.3 and 9.1(a) and (b), shall be made as follows:

1. For the general education student, the district board of education shall make a determination of the student's risk for school failure and a decision regarding the student's placement in an alternative education program, at a minimum, based on the following:

i. The review of the student's academic, health and behavioral records , including the student's IPP, if one has been developed in accordance with N.J.A.C. 6A:16-9.2(a)3i through v, and the results of available testing, assessment or evaluation of the student;

ii. Consultation with and notice to the student's parent; and

iii. Information provided by the school-based multidisciplinary team responsible to provide intervention and referral services, pursuant to N.J.A.C. 6A:16-8, or other multidisciplinary team, as appropriate.

2. Decisions regarding the placement of the student with a disability in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) and (b), shall be based on the recommendation of appropriate personnel in accordance with N.J.A.C. 6A:14.

3. The district board of education shall provide mandatory placement for a student in an alternative education program for removal due to a firearms offense, pursuant to N.J.A.C. 6A:16-5.5 or an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.

i. If placement in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) or (b), is not available in the instance of a mandatory student placement, the student shall be provided home or out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, until placement in an alternative education program is available.

ii. For the student with a disability, placement in an alternative education program for a firearm offense or an assault with a weapon offense shall occur only upon a determination by appropriate school personnel to place the student in accordance with the provisions of N.J.A.C. 6A:14, Special Education Programs and the Individuals with Disabilities Act of 2004, 20 U.S.C. § § 1400 et seq.

(b) If a district board of education places a student in an alternative education program approved by another district board of education, pursuant to N.J.A.C. 6A:16-9.1(a)1, or another approved agency, pursuant to N.J.A.C. 6A:16-9.1(b), the district board of education of the sending school district shall be responsible for ensuring compliance with the requirements of this subchapter.

(c) Decisions regarding continued placement in an alternative education program or a change to a student's placement shall be made as follows:

1. For the general education student returning to the general education program, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, and (a)1 above.

2. For a student with disabilities, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, (a)2 above, and N.J.A.C. 6A:14, Special Education.

SUBCHAPTER 10. HOME OR OUT-OF-SCHOOL INSTRUCTION

6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition

(a) The district board of education shall provide instructional services to an enrolled student whether a general education student in kindergarten through grade 12 or special education student age three to 21, at the student's home or another suitable out-of-school setting such as a hospital or rehabilitation

program when the student is confined to the home or another out-of-school setting due to a temporary or chronic health condition or a need for treatment which precludes participation in their usual education setting, whether general education or special education.

1. To request home instruction due to a temporary or chronic health condition, the parent shall submit a request to the school district that includes a written determination from the student's physician documenting the projected need for confinement at the student's residence or other treatment setting for 10 consecutive school days or 15 cumulative school days or more during the school year.

i. The school district shall forward the written determination to the school physician, who shall verify the need for home instruction. The school physician may contact the student's physician to secure additional information concerning the student's diagnosis or need for treatment and shall either verify the need for home instruction or shall provide reasons for denial to the district board of education.

2. The school district shall notify the parent concerning the school physician's verification or reasons for denial within five school days after receipt of the written determination by the student's physician.

3. The school district shall provide instructional services within five school days after receipt of the school physician's verification or, if verification is made prior to the student's confinement, during the first week of the student's confinement to the home or out-of-school setting.

(b) The school district shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly or through contract with another district board of education, educational services commission, jointure commission, or approved clinic or agency pursuant to N.J.A.C. 6A:14 for the following categories of students:

1. A student who resides within the area served by the district board of education and is enrolled in a public school program; or

2. A student who is enrolled in a nonpublic school that is located within the area served by the district board of education pursuant to N.J.S.A. 18A:46A-1 et seq.

(c) The home or out-of-school instruction shall meet the following minimum standards:

1. The school district shall establish a written plan for the delivery of instruction and maintain a record of delivery of instructional services and student progress.

i. For a student without disabilities whose projected confinement will exceed 30 consecutive calendar days, the school district shall develop an Individualized Program Plan (IPP) for the student within no more than 30 calendar days from the date on which the school district receives the school physician's verification that the period of confinement would likely exceed this 30 consecutive calendar day threshold.

2. The teacher providing instruction shall be appropriately certified for the subject, grade level and special needs of the student pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards.

3. The teacher shall provide one-on-one instruction for no fewer than five hours per week on three separate days of the week and, if the student is physically able, no fewer than five hours per week of additional guided learning experiences that may include the use of technology to provide audio and visual connections to the student's classroom.

i. If home instruction is provided to students in a small group rather than through one-on-one instruction, the minimum number of hours of instruction per week for the group shall be determined by multiplying the number of students in the group by five hours. The hours of instruction shall be provided on no fewer than three separate days during the week.

4. For a student with disabilities, the home instruction shall be consistent with the student's Individualized Education Plan (IEP) to the extent appropriate and shall meet the Core Curriculum Content Standards pursuant to N.J.A.C. 6A:8, Standards and Assessment. When the provision of home instruction will exceed 30 consecutive school days in a school year, the IEP team shall convene a meeting to review and, if appropriate, revise the student's IEP.

5. For a student without disability, the home instruction shall meet the Core Curriculum Content Standards pursuant to N.J.A.C. 6A:8, Standards and Assessment, and the requirements of the district board of education for promotion at that grade level. When the provision of home instruction will exceed 60 calendar days, the school physician shall refer the student to the child study team for evaluation according to the requirements N.J.A.C. 6A:14.

6A:16-10.2 Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition

(a) The district board of education shall provide instructional services to an enrolled general education student at the student's home or other suitable out-of-school setting under the following conditions:

1. The student is mandated by State law and rule for placement in an alternative education program for violations of N.J.A.C. 6A:16-5.5 and 5.6 but placement is not immediately available;

2. The student is placed on short-term or long-term suspension from participation in the general education program pursuant to N.J.A.C. 6A:16-7.2 and 7.3; or

3. A court order requires that the student receive instructional services in the home or other out-of-school setting.

(b) The school district shall provide services no later than five school days after the student has left the general education program.

(c) The school district in which a student resides shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly or through contract with another board of education, educational services commission, jointure commission or approved clinic or agency.

(d) The services shall meet the following minimum standards:

1. The school district shall develop an Individualized Program Plan (IPP) for delivery of instruction and maintain a record of delivery of instructional services and student progress.

i. For a student expected to be on home instruction for 30 calendar days or more, the IPP shall be developed within 30 calendar days after placement.

(1) For a student on short-term suspension from the general education program pursuant to N.J.A.C. 6A:16-7.2, development of an IPP is not required.

(2) For a student on long-term suspension from the general education program pursuant to N.J.A.C. 6A:16-7.3, the IPP shall be developed within 30 days following a determination by the district board of education.

ii. The IPP shall be based upon consultation with the student's parent and a multidisciplinary team of professionals with appropriate instructional and educational services credentials to assess the educational, behavioral, emotional, social and health needs of the student and recommend a program to address both educational and behavioral goals;

iii. The IPP shall incorporate any prior findings and actions recommended through the school building system of Intervention and Referral Services, pursuant to N.J.A.C. 6A:16-8, Intervention and Referral Services ;

iv. The IPP shall recommend placement in an appropriate educational program, including supports for transition back to the general education setting; and

v. The school district shall review the student's progress, consult with the student's parent and revise the IPP no less than every 60 calendar days.

2. The teacher providing instruction shall be appropriately certified for the subject and grade level of the student pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards.

3. The teacher shall provide one-on-one instruction for no fewer than 10 hours per week on three separate days of the week and no fewer than 10 hours per week of additional guided learning experiences that may include the use of technology to provide audio and visual connections to the student's classroom.

i. If home instruction is provided to students in a small group rather than through one-on-one instruction, direct instruction that may include guided learning experiences shall be provided for no fewer than 20 hours per week provided on no fewer than three separate days during the week and the student to teacher ratio shall not exceed 10:1.

4. The instruction shall meet the Core Curriculum Content Standards in accordance with N.J.A.C. 6A:8 and the requirements of the district board of education for promotion and graduation.

(e) If instruction is delivered in the student's home, a parent or other adult 21 years of age or older who has been designated by the parent shall be present during all periods of home instruction.

(f) Refusal or failure by a parent to participate in the development and revision of the student's IPP as required in (d) above or to be present in the home as required in this subchapter may be deemed a violation of compulsory education laws, pursuant to N.J.S.A. 18A:38-25 through 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq.

(g) The district board of education shall maintain a summary record concerning students receiving home or out-of-school instruction because they could not be placed in the setting recommended as most appropriate in the students' IPPs.

1. The summary record shall provide information concerning the number of students categorized by age, grade and gender, the number of weeks on home instruction before placement in the recommended setting, and the reasons for delay.

2. The district board of education shall provide the summary report annually to the county superintendent of schools.

SUBCHAPTER 11. REPORTING POTENTIALLY MISSING OR ABUSED CHILDREN

6A:16-11.1 Adoption of policies and procedures

(a) The district board of education shall develop and adopt policies and procedures for school district employees, volunteers or interns to provide for the early detection of missing, abused or neglected children through notification of, reporting to and cooperation with the appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-25 and 9:6-8.10. School district board-approved policies and procedures developed pursuant to this subchapter shall be reviewed and approved by the county superintendent. At a minimum, these policies and procedures shall include:

1. A statement indicating the importance of early detection of missing, abused or neglected children;

2. Provisions requiring school district employees, volunteers or interns, to immediately notify designated child welfare authorities of incidents of alleged missing, abused and neglected children.

i. The person having reason to believe that a child may be missing or may have been abused or neglected may, prior to notifying designated child welfare authorities,

inform the principal or other designated school official(s) if the action will not delay immediate notification.

ii. The person notifying designated child welfare authorities shall inform the principal or other designated school official(s) of the notification, if such had not occurred prior to the notification;

(1) Notice to the principal or other designated school official(s) need not be given when the person believes that such notice would likely endanger the reporter or student involved or when the person believes that such disclosure would likely result in retaliation against the student or in discrimination against the reporter with respect to his or her employment.

3. Provisions requiring the principal or other designated school official(s) to notify designated law enforcement authorities of incidents of potentially missing, abused or neglected child situations.

i. The school district shall identify the school district official(s) and their designees responsible for reporting to the designated law enforcement authorities.

ii. The school district policies and procedures shall be consistent with the Memorandum of Agreement between education and law enforcement authorities pursuant to N.J.A.C. 6A:16-6.2(b)13.

iii. The notification to designated law enforcement authorities shall be made for all reports by school district employees, volunteers or interns made pursuant to (a)2 above;

4. Under no condition shall the school district's policy require confirmation by another person to report the suspected missing, abused or neglected child situation.

5. Provisions for school district cooperation with designated child welfare and law enforcement authorities in all investigations of potential missing, abused or neglected children including the following:

i. Accommodations permitting the child welfare and law enforcement investigators to interview the student in the presence of the school principal or other designated school official.

(1) If the student is intimidated by the presence of that school representative, the student shall be requested to name a school district employee, volunteer or intern, whom he or she feels will be supportive, who will be allowed to accompany the student during the interview;

ii. Scheduling interviews with any school district employee, volunteer or intern who may have information relevant to the investigation;

iii. The release of all records of the student who is the subject of the investigation that are deemed to be relevant to the assessment or treatment of a potentially missing, abused or neglected child pursuant to N.J.S.A. 18A:36-19, N.J.S.A. 9:8-8.40 and N.J.AC. 6A:32-7 and allowable under the Family Education Rights and Privacy Act (FERPA), 34 CFR Part 99;

iv. The maintenance, security, and release of all confidential information about potential missing, abused or neglected child situations in accordance with N.J.S.A. 18A:36-19, N.J.S.A. 9:8-8.40 and N.J.A.C. 6A:32-7;

(1) All information regarding allegations of potentially missing, abused or neglected children reported to authorities about a school district employee, volunteer or intern shall be considered confidential and may be disclosed only as required in order to cooperate in investigations pursuant to (a)2 and 3 above or by virtue of a court order.

(A) Records pertaining to such information shall be maintained in a secure location separate from other employee personnel records and accessible only to the school district chief school administrator or his or her designee;

v. The release of the student to child welfare authorities while school is in session when it is necessary to protect the student or take the student to a service provider.

(1) Such removal shall take place only after the principal or his or her designee has been provided, either in advance or at the time removal is sought, with appropriate documentation that the child welfare authority has already removed, or has appropriate authority to remove, the student from his or her home, as specified in N.J.S.A. 9:6-8.27 through 8.30; and

vi. The transfer of a student who has been removed from his or her home by designated child welfare authorities for proper care and protection pursuant to N.J.S.A. 9:6-8.28 and 8.29 to another school;

6. A provision for the establishment of a school district liaison to designated child welfare authorities to act as the primary contact person between the schools in the school district and child welfare authorities with regard to general information sharing, the development of mutual training and other cooperative efforts;

7. A provision for designating the school district liaison to law enforcement authorities to act as the primary contact person between the schools in the school district and law enforcement authorities, pursuant to N.J.A.C. 6A:16-6.2(b)1, consistent with the memorandum of understanding, pursuant to N.J.A.C. 6A:16-6.2(b)13.

i. The designation of the school district liaison shall be consistent with the policies and procedures established by the district board of education for ensuring cooperation between school and law enforcement officials, pursuant to N.J.A.C. 6A:16-6.2(b)1;

8. Provisions for training school district employees, volunteers and interns on the district's policies and procedures for reporting allegations of missing, abused or neglected child situations.

i. All new school district employees, volunteers and interns shall receive the required information and training as part of their orientation;

9. Provisions regarding due process rights of a school employee, volunteer or intern who has been named as a suspect in a notification to child welfare and law enforcement authorities regarding a missing, abused or neglected child situation.

i. Temporary reassignment or suspension of a school employee, volunteer or intern named as a suspect pursuant to (a)2 above shall occur only if there is reason to believe that the life or health of the alleged victim or other student is in imminent danger due to continued contact between the school employee, volunteer or intern and the student.

ii. All references to a notification to the designated child welfare authorities of a potential missing, abused or neglected child situation involving a school district employee, shall be removed from the employee's personnel records immediately following the receipt of an official notice from child welfare authorities that the allegation was unfounded pursuant to N.J.S.A. 18A:6-7a; and

10. A statement that prohibits reprisal or retaliation against any person who, in good faith, reports or causes a report to be made of a potential missing, abused or neglected child situation pursuant to N.J.S.A. 9:6-8.13.