NJ State Statutes – 3/10

18A:40A-1. Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines

Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

L.1987, c.389, s.1; amended 1989,c.216,s.3; 1989,c.225,s.2.

18A:40A-2. Curriculum guidelines; annual review and updating; minimum requirements

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;

b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;

c. Decision making and coping skills; and,

d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

L.1987, c.389, s.2; amended 1989,c.216,s.4; 1989,c.225,s.3.

18A:40A-3. Initial inservice training programs; curriculum; availability

a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous

substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

L.1987, c.389, s.3; amended 1989,c.216,s.5; 1989,c.225,s.4.

18A:40A-4. Preservice training

In addition to the provisions for inservice training established pursuant to this act, the commissioner shall insure that the preservice training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

1987, c. 389, s.4.

18A:40A-5. Loaning of educational materials

The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

L.1987, c.389, s.5; amended 1989,c.216,s.6; 1989,c.225,s.5.

18A:40A-6. Evaluation

The Commissioner of Education, in consultation with the Commissioner of Health, shall establish and administer a system for the evaluation of the effectiveness of instructional programs established pursuant to this act. Programs which are shown to be effective shall be made available to other school districts throughout the State.

1987, c. 389, s.6.

18A:40A-8. Findings, declarations

The Legislature finds and declares that:

a. A significant number of young people are unfortunately already involved in the abuse of alcohol and other drugs;

b. Research indicates that particular groups of youngsters, such as the children of alcoholic parents, may in fact face an increased risk of developing alcohol and other substance abuse problems and that early intervention services can be critical in their prevention, detection and treatment; and,

c. School-based initiatives have proven particularly effective in identifying and assisting students at a high risk of developing alcohol and other drug disturbances and in reducing absenteeism, decreasing the consumption of alcohol and other drugs, and in lessening the problems associated with such addictions.

1987,c.387, s.1.

18A:40A-9. Definitions

For the purposes of this act:

"Substance" shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L.1970, c.266 (C.24:21-2), anabolic steroids or any chemical or chemical compound which releases vapors 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 section 1 of P.L.1965, c.41 (C.2A:170-25.9).

"Substance abuse" shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

L.1987, c.387, s.2; amended 1989,c.216,s.1.

18A:40A-10. Referral program in schools

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary

and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

1987,c.387, s.3.

18A:40A-11. Policies for evaluations, referral, discipline

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

1987,c.387, s.4.

18A:40A-12 Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

5. a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to his or her home as soon as possible and shall not resume attendance at school until the pupil

submits to the principal a written report certifying that he or she is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health and Senior Services.

b. Whenever any teaching staff member, school nurse or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health and Senior Services.

L.1987, c.387, s.5; amended 1989, c.216, s.2; 2009, c.54, s.1.

18A:40A-13 Immunity for personnel.

6. No action of any kind in any court of competent jurisdiction shall lie against any teaching staff member, including a student assistance coordinator, any school nurse or other educational personnel, medical inspector, examining physician or any other officer, agent or any

employee of the board of education or personnel of the emergency room of a hospital because of any action taken by virtue of the provisions of this act, provided the skill and care given is that ordinarily required and exercised by other such teaching staff members, nurses, educational personnel, medical inspectors, physicians or other officers, agents, or any employees of the board of education or emergency room personnel.

L.1987, c.387, s.6; amended 1992, c.158, s.1; 2009, c.54, s.2.

18A:40A-14 Civil immunity for reporting.

7. Any teacher, guidance counselor, school psychologist, school nurse, student assistance coordinator or other educational or noneducational personnel, employed by or in any of the public or private schools of this State, who in good faith reports a pupil to the principal or his designee or to the medical inspector or school physician or school nurse in an attempt to help such pupil cure his abuse of substances as defined in section 2 of this act, shall not be liable in civil damages as a result of making any such report.

Nothing in this section is intended to preclude the protections provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or otherwise provided by law.

L.1987, c.387, s.7; amended 1992, c.158, s.2; 2009, c.54, s.3.

18A:40A-15. Inservice training program

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an inservice training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

(1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;

(2) Appropriate intervention strategies; and,

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The inservice training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the inservice training program developed pursuant to this section. The inservice training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 of this act.

1987, c. 387, s.8.

18A:40A-16. Guidelines, materials for program

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

1987, c. 387, s.9.

18A:40A-17. Outreach program

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by

school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

1987, c. 387, s.10.

18A:40A-18 Employment of student assistance coordinators in certain school districts.

11. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention and treatment referral services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban and rural districts from the north, central and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health and Senior Services shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to

combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

L.1987, c.387, s.11; amended 1990, c.52, s.54; 1996, c.138, s.70; 2007, c.260, s.68; 2009, c.54, s.4.

18A:40A-19. Pilot programs

The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office

of the Courts, to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

1987, c. 387, s.12.

18A:40A-20. Annual report

The Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, shall develop procedures for the evaluation of the impact of the programs established pursuant to this act and shall report annually to the Governor and the Legislature on the effects of these programs. That report shall include data concerning the incidence of substance abuse in the public schools; the nature and scope of intervention, prevention and treatment referral programs; an assessment of the impact of those programs on the problem of substance abuse; and, any recommendations for modifications in the programs established pursuant to this act.

1987, c. 387, s.13.

18A:40A-21. Rules, regulations

The State Board of Education shall, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of this act.

1987, c. 387, s.14.

18A:40A-22 Findings, declarations relative to substance abuse testing policies in public school districts.

1. The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

L.2005,c.209,s.1.

18A:40A-23 Adoption of policy for random testing of certain students.

2. A board of education may adopt a policy, pursuant to rules and regulations adopted

by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S.2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

L.2005,c.209,s.2.

18A:40A-24 Public hearing prior to adoption of drug testing policy.

3. Each board of education shall hold a public hearing prior to the adoption of its drug testing policy. The policy shall be in written form and shall be distributed to students and their parents or guardians at the beginning of each school year. The policy shall include, but need not be limited to, the following:

a. notice that the consent of the student and his parent or guardian for random student drug testing is required for the student to participate in extracurricular activities and to possess a school parking permit;

b. the procedures for collecting and testing specimens;

c. the manner in which students shall be randomly selected for drug testing;

d. the procedures for a student or his parent or guardian to challenge a positive test result;

e. the standards for ensuring the confidentiality of test results;

f. the specific disciplinary action to be imposed upon a student who tests positive for drug use or refuses to consent to testing;

g. the guidelines for the referral of a student who tests positive for drug use to drug counseling or rehabilitative treatment; and

h. the scope of authorized disclosure of test results

L.2005,c.209,s.3.

18A:40A-25 Rules, regulations.

4. The State Board of Education, in consultation with the Department of Human

Services, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.2005,c.209,s.4.