

# N.J.A.C. 6A:32. School District Operations

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## **Chapter 32. School District Operations**

### **Subchapter 1. Scope and Purpose**

#### **6A:32-1.1 Scope and purpose**

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

### **Subchapter 2. Definitions**

#### **6A:32-2.1 Definitions**

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

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

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

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

“Board of school estimate” means a group of individuals who are appointed in accordance with N.J.S.A. 18A:22-1 and 2 and are responsible for annually preparing a budget for Type I school districts pursuant to N.J.S.A. 18A:22-7.

“Chief school administrator” means the superintendent of schools or the administrative principal if there is no superintendent. At N.J.A.C. 6A:32-7, 8, and 13, “chief school administrator” includes charter school and renaissance school project lead persons.

“Days in membership” means the number of school days in session in which a student is enrolled. A student’s membership begins on the first possible day of attendance following enrollment during the school year, notwithstanding the actual day the student was recorded as present for the first time.

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

“Endorsement” means as defined in N.J.A.C. 6A:9-2.1.

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

“Executive county superintendent” means a person appointed to serve as executive county superintendent of schools pursuant to N.J.S.A. 18A:7-1 et seq.

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

“Health screening” means the use of one or more diagnostic tools to test a person for the presence or precursors of a particular disease.

“Mandated student records” means student records that school districts compile pursuant to State statute, regulation, or authorized administrative directive.

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

“Parent” means the natural or adoptive parent, legal guardian, surrogate parent appointed pursuant to N.J.A.C. 6A:14-2.2, or a person acting in the place of a parent (such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student’s welfare).

Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights pursuant **to** this chapter. In addition, a resource family parent may act as a parent pursuant **to** this chapter if the parent’s authority to make education decisions on the student’s behalf has been terminated by a court of appropriate jurisdiction.

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

“Personally identifiable information” means, but is not limited to:

1. The student’s name;
2. The name of the student’s parent(s) or other family members;
3. The address of the student or the student’s family;
4. The email address of the student, the student’s parent(s), or other family members;
5. The telephone number of the student, the student’s parent(s), or other family members;
6. A personal identifier, such as the student’s Social Security number, student number, or biometric record;
7. A photo of the student;

8. The location and times of class trips;
9. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
10. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or
11. Information requested by a person who the district board of education, or private agency that provides educational services by means of public funds, reasonably believes knows the identity of the student to whom the student record relates.

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

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

“Remote instruction” means the provision of instruction occurring when the student and the instructor are in different locations due to the closure of the facility(ies) of the district board of education, charter school, renaissance school project, or approved private school for students with disabilities. The closure of the facility(ies) shall be pursuant to N.J.S.A. 18A:7F-9 or 18A:46-21.1 and for more than three consecutive school days due to a declared state of emergency, a declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure.

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

“Secondary” means grades nine through 12 in all high schools; grades seven and eight in junior high schools; grades seven, eight, and nine in middle schools; and grades seven and eight in elementary schools having departmental instruction.

“Statement of assurance” means a document that verifies compliance with regulatory requirements and is submitted to the executive county superintendent by the chief school administrator.

“Student discipline record” means information regarding all disciplinary actions taken against a student by a school district pursuant to N.J.S.A. 18A:36-25.1.b and that is maintained in a student’s record.

“Student information directory” means a publication of a district board of education that includes the following information relating to a student. It shall be used only by authorized school district personnel and for designated official use by judicial, law enforcement, and medical personnel and not for general public consumption.

1. Name;
2. Grade level;
3. Date and place of birth;
4. Dates of school attendance;
5. Major field of study;
6. Participation in officially recognized activities;

7. Weight and height relating to athletic team membership;
8. Degrees;
9. Awards;
10. The most recent educational agency attended by the student; and
11. Other similar information.

“Student record” means information related to an individual student gathered within or outside the school district and maintained within the school district, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information that is maintained for the purpose of second-party review is considered a student record. Therefore, information recorded by certified school personnel solely as a memory aid and not for the use of a second party is excluded from this definition. In the absence of any “information related to an individual student,” the document(s) no longer meets the definition of “student record.”

“Supervisor” means any appropriately certified individual assigned with the responsibility for the direction and guidance of the work of teaching staff members.

“Teaching staff member” means as defined at N.J.S.A. 18A:1-1.

“Virtual instruction” means the provision of active instruction when the student and the instructor are in different locations and instruction is facilitated through the internet and computer technologies due the closure of the facility(ies) of the district board of education, charter school, renaissance school project, or approved private school for students with disabilities. The closure of the facility(ies) shall be pursuant to N.J.S.A. 18A:7F-9 or 18A:46-21.1 and for more than three consecutive school days due to a declared state of emergency, a declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure.

### **Subchapter 3. District Boards of Education - General**

#### **6A:32-3.1 Special meetings of district boards of education**

- (a) The secretary of the district board of education shall call a special meeting of the district board of education whenever:
  - 1. Requested by the president of the district board of education;
  - 2. Requested by the chief school administrator when the district board of education fails to meet within two months during the period in which the schools in the district are in session; or
  - 3. Presented with a petition signed by a majority of the full membership of the district board of education requesting the special meeting.
- (b) Public notice of the special meeting shall be made pursuant to law and regulation, including N.J.S.A. 18A:10-6. Additionally, the public notice shall include the date, time, location, and purpose(s) of the special meeting.

#### **6A:32-3.2 Requirements for the code of ethics for district board of education members and charter school or renaissance school project board of trustees members**

- (a) Each district board of education and charter school or renaissance school project board of trustees shall:
  - 1. Discuss annually the School Ethics Act and the Code of Ethics for School Board Members, pursuant to N.J.S.A. 18A:12-21 et seq., at a regularly scheduled public meeting;

2. Adopt policies and procedures regarding the training of district board of education and charter school or renaissance school project board of trustees members in understanding the Code of Ethics; and
  3. Maintain documentation, pursuant to (b) below, that each member of the district board of education or charter school or renaissance school project board of trustees has received and reviewed the Code of Ethics.
- (b) Each member of the district board of education or charter school or renaissance school project board of trustees shall sign an acknowledgement of receipt of the Code of Ethics for School Board Members contained at N.J.S.A. 18A:12-21 et seq. The acknowledgement of receipt requires each district board of education member and charter school or renaissance school project board of trustees member to read and become familiar with the Code of Ethics.

#### **6A:32-3.3 Boards of school estimate**

- (a) In any district board of education operating as a Type I school district, pursuant to N.J.S.A. 18A:9-2, the mayor of the municipality comprising the school district shall be the presiding officer of the board of school estimate.
- (b) In the event of the absence of the mayor at any meeting of the board of school estimate, the members present at the meeting shall proceed to elect a presiding officer pro tem.

### **Subchapter 4. Employment of Teaching Staff**

#### **6A:32-4.1 Employment of teaching staff**

- (a) Each district board of education or private agency that provides educational services by means of public funds shall determine guidelines for the hiring of all staff.

- (b) Pursuant to N.J.S.A. 18A:26-2, no teaching staff member shall be employed by any district board of education or private agency that provides educational services by means of public funds unless the teaching staff member holds a valid certificate.
- (c) Pursuant to N.J.A.C. 6A:9 and 6A:9B, the district board of education shall employ certified personnel to implement a thorough and efficient system of free public schools.
- (d) Each school shall be assigned the services of a full-time non-teaching principal to be responsible for administration and supervision of the school.
  - 1. When a full-time non-teaching principal is not assigned to a school, the district board of education, upon advice of the chief school administrator, shall submit to the Commissioner for approval a plan that ensures adequate supervision of students and staff.

#### **6A:32-4.2 Approval of paraprofessional staff**

The district board of education shall submit a statement of assurance (SOA) affirming that all paraprofessional staff hired were employed as instructional or health and safety personnel or in accordance with the requirements of individualized education programs. The district board of education shall submit the SOA to the executive county superintendent no later than September 30 and January 31 each school year.

#### **6A:32-4.3 Access to personnel records**

A district board of education or private agency that provides educational services by means of public funds shall make employee records and information available for public access pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and in accordance with N.J.S.A. 18A:6-120.d and 121.d.

## **Subchapter 5. Seniority**

### **6A:32-5.1 Standards for determining seniority**

- (a) For purposes of this subchapter, “employment” shall be inclusive of “office” and “position.”
- (b) Seniority, pursuant to N.J.S.A. 18A:28-13 et seq., shall be determined according to the number or fraction of academic or calendar years of employment in the school district in the specific categories at (l) below. Credit toward seniority shall include periods of unpaid absences not exceeding 30 calendar days aggregate in one academic or calendar year, leaves of absence at full or partial pay, and unpaid absences granted for study or research. Any leave of absence or suspension resulting from confirmed discipline and all other unpaid absences or leaves of absence shall not receive seniority credit.
- (c) In computing length of service for seniority purposes, full recognition shall be given to previous years of service within the school district and to time of service in or with the military or naval forces of the United States or this State, pursuant to N.J.S.A. 18A:28-12.
- (d) Employment in the school district prior to the adoption of the standards shall be counted in determining seniority.
- (e) An employee who holds an emergency or provisional certificate shall not be entitled to seniority rights, but the years of employment under the emergency or provisional certificate shall count toward seniority when the employee becomes the holder of a standard certificate, as defined at N.J.A.C. 6A:9, Professional Standards.
- (f) Whenever a person holds employment simultaneously under two or more endorsements, or in two or more categories at (l) below, seniority shall be counted in all endorsements and categories in which the person is, or has been, employed.

- (g) If the employment title is not properly descriptive of the duties performed, the person who holds employment shall be placed in a category in accordance with the duties performed and not by title. If the employment title is not found at (l) below or at N.J.A.C. 6A:9B, State Board of Examiners and Certification, the person who holds employment shall be classified as nearly to the duties performed as possible, pursuant to N.J.A.C. 6A:9B.
- (h) Whenever a person moves from, or reverts to, a category at (l) below, all periods of employment shall be credited toward the person's seniority in any or all categories in which the person previously held employment.
- (i) Whenever an employment category is abolished, a tenured employee shall be given employment in the same category to which the employee is entitled by seniority. If the tenured employee has insufficient seniority for employment in the same category, then the employee shall revert to the category in which employment was held prior to employment in the same category. The person shall be placed and remain on the preferred eligible list until a vacancy occurs in the category to which the person is entitled seniority.
- (j) If a person has insufficient seniority in the category to which they reverted, the person shall revert to the next category in which employment was held immediately prior to employment in the category to which they reverted. The person shall be placed, and remain on, the preferred eligible list of the next preceding category, and so forth, until the person has been employed or placed on all the preferred eligible lists of the categories in which the person formerly held employment in the school district.
- (k) In the event of a person's employment in some category to which they reverted, the person shall remain on all the preferred eligible lists of the categories from which they reverted.

The person shall be entitled to employment in any one or more such categories whenever a vacancy occurs to which seniority entitles them.

- (1) The following shall be deemed to be specific categories, not necessarily numbered in order of precedence:
  1. Superintendent of schools;
  2. Assistant superintendent.
    - i. Each assistant superintendent position shall be a separate category; and
    - ii. District boards of education shall adopt, for each assistant superintendent position, a job description that shall set forth qualifications and endorsements for the position;
  3. Director.
    - i. Each director position shall be a separate category; and
    - ii. District boards of education shall adopt, for each director position, a job description that sets forth the qualifications and endorsements for the position;
  4. High school principal;
  5. Adult high school principal;
  6. Alternative school principal;
  7. Vocational school principal;
  8. Junior high or middle school principal;
  9. Elementary school principal;
  10. Supervisor.
    - i. Each supervisory title shall be a separate category; and

- ii. District boards of education shall adopt, for each supervisory position, a job description that sets forth the qualifications and specific endorsements required for the position;
- 11. High school vice principal or assistant principal;
- 12. Adult high school vice principal or assistant principal;
- 13. Alternative school vice principal or assistant principal;
- 14. Junior high or middle school vice principal or assistant principal;
- 15. Elementary school vice principal or assistant principal;
- 16. Vocational school vice principal or assistant principal;
- 17. Secondary:
  - i. Any person holding an instructional certificate with endorsements shall have seniority within the secondary category only in the endorsement(s) under which the person has actually served;
  - ii. Whenever a person shall be reassigned from one subject area to another, all periods of employment in the person's new assignment shall be credited toward seniority in all endorsements in which employment was previously held;
  - iii. Any person employed at the secondary level in a position requiring an educational services certificate or an instructional endorsement shall acquire seniority only in the secondary category and only for the period of actual service under the educational services certificate or instructional endorsement; and

- iv. Persons employed and providing services on a districtwide basis under an instructional endorsement or an educational services certificate shall acquire seniority on a districtwide basis;
18. Elementary:
- i. To reorganize instruction at grades seven and eight pursuant to this subchapter, district boards of education shall adopt a formal resolution setting forth the reasons for the reorganization;
  - ii. Any person employed at the elementary level in a position requiring an educational services certificate or an instructional endorsement shall acquire seniority only in the elementary category and only for the period of actual service under the educational services certificate or instructional endorsement;
  - iii. Any person employed and providing services on a districtwide basis under an instructional endorsement or an educational services certificate shall acquire seniority on a districtwide basis;
  - iv. Any person serving under an elementary endorsement in departmentally organized grades seven and eight prior to September 1, 1983, shall continue to accrue seniority in the elementary category for all such service prior, and subsequent to, September 1, 1983. In addition, the person shall accrue seniority in the secondary category but limited to the school district's departmentally organized grades seven and eight and the specific subject area taught in the departmentally organized grades subsequent to September 1, 1983; and

19. Additional categories of specific educational service endorsements issued by the State Board of Examiners and listed in N.J.A.C. 6A:9B.
- (m) If a restructure of grade levels results in the elimination of all junior high or middle schools in the school district and the creation of schools with a grade-level organization that includes grades seven and eight, the seniority rights of the junior high or middle school principals, vice principals, and assistant principals displaced by the restructuring shall be transferable to the newly reorganized schools in the category as defined at (l)9 above.

### **Subchapter 6. School Employee Physical or Psychiatric Examinations**

#### **6A:32-6.1 Scope and purpose**

- (a) This subchapter designates the minimum assessments to be used by district boards of education in establishing physical examinations for candidates for employment and physical or psychiatric examinations of school district employees.
- (b) This subchapter applies to all district boards of education and private agencies that provide educational services by means of public funds.

#### **6A:32-6.2 Policies and procedures for physical or psychiatric examinations**

- (a) Pursuant to N.J.S.A. 18A:16-2, district boards of education shall adopt written policies and procedures for the physical examination of candidates for employment. The written policies shall provide for notification to candidates for employment regarding the requirements for physical examinations. The written policies also shall establish procedures to assure confidentiality during the collection, transmission, and storage of medical records of candidates for employment.

- (b) Pursuant to N.J.S.A. 18A:16-2.a, the district board of education may require physical or psychiatric examinations of school employees. The written policies shall provide for notification to school employees regarding the requirements for physical or psychiatric examinations. The written policies also shall establish procedures to assure confidentiality during the collection, transmission, and storage of employee medical records.

**6A:32-6.3 Requirements of physical or psychiatric examinations**

- (a) Pursuant to N.J.S.A. 18A:16-2, district boards of education shall require candidates for employment who have received a conditional offer of employment to undergo a physical examination such as testing for usage of controlled or dangerous substances or to determine whether the candidate is able to perform, with reasonable accommodation, job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990.
- (b) Pursuant to N.J.S.A. 18A:16-2, a district board of education may require physical or psychiatric examinations of a school district employee whenever, in the district board of education’s judgment, an employee shows evidence of deviation from normal physical or mental health. The purpose of the physical or psychiatric examination shall be to determine the employee’s physical and mental fitness to perform, with reasonable accommodation, the position the employee currently holds, or to detect any health risk(s) to students and other employees. When a district board of education requires an employee to undergo a physical or psychiatric examination:
  - 1. The district board of education shall provide the employee with a written statement of the reason(s) for the required examination.
  - 2. The district board of education shall provide the employee with a hearing, if requested.

- i. The determination of such a hearing shall be appealable to the Commissioner pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:4, Appeals.
- 3. The employee may refuse, without reprisal, to waive their right to protect the confidentiality of medical information, in accordance with P.L. 104-191, Health Insurance Portability and Accountability Act of 1996.
- (c) An individual employee may provide health-status information, including medications, that may be of value to medical personnel in the event of an emergency requiring treatment. In such instances, an employee may also choose to share with the building principal and, if desired, with the certified school nurse, information regarding current health status to assure ready access in a medical emergency.
- (d) Health records of candidates for employment and of current employees, including computerized records, shall be secured, stored, and maintained separately from other personnel files. Health records may be shared only with authorized individuals in accordance with N.J.S.A. 18A:16-5.
- (e) Pursuant to N.J.S.A. 18A:16-3, the district board of education shall bear the cost of examinations made by a physician or institution designated by the district board of education. However, the employee shall bear the cost if the examination is performed by a physician or institution designated by the employee with approval of the district board of education.

## **Subchapter 7. Student Records**

### **6A:32-7.1 General considerations**

- (a) This subchapter applies to all district boards of education, charter schools, renaissance school projects, approved private schools for students with disabilities, and private agencies

that provide educational services by means of public funds. Throughout this subchapter, unless otherwise indicated, “district board of education” refers to the governing body for each of the five types of agencies.

- (b) Each district board of education shall compile and maintain student records and regulate access in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and 34 CFR Part 99, disclosure, or communication of information contained in student records in a manner that assures the security of the records in accordance with this subchapter.
- (c) Student records shall contain only information that is relevant to the education of the student and is objectively based on the personal observations or knowledge of the certified school personnel who originate(s) the record.
- (d) The district board of education shall provide annual, written notification to parents, adult students, and emancipated minors of their rights in regard to student records and student participation in educational, occupational, and military recruitment programs. Copies of the applicable State and Federal laws and district board of education policies shall be made available upon request. The district board of education shall make every effort to notify parents and adult students in their dominant language.
- (e) Nonadult students may assert rights of access only through their parent(s). However, nothing in this subchapter shall be construed to prohibit certified school personnel from disclosing, at their discretion, student records to nonadult students or to appropriate persons in connection with an emergency, if the information contained in the record is necessary to protect the health or safety of the student or other persons.

- (f) The parent or adult student shall have access to the student's records and have access to, or be specifically informed about, only the portion of another student's record that contains information about the student.
- (g) Each district board of education shall establish written policies and procedures for student records that:
1. Guarantee access to persons authorized under this subchapter within 10 days of a request, but prior to any review or hearing conducted in accordance with N.J.A.C. 6A;
  2. Assure security of the student records;
  3. Enumerate and describe the student records collected and maintained by the district board of education;
  4. Provide for inclusion in a student record any educationally relevant information provided by the parent or adult student;
  5. Allow for release of school contact directory information for official use, as defined in N.J.A.C. 6A:32-7.2;
  6. Provide the parent or adult student a 10-day period to submit to the chief school administrator a written statement prohibiting the inclusion of any or all types of information about the student in any student information directory before allowing access to the directory and school facilities to educational, occupational, and military recruiters pursuant to N.J.S.A. 18A:36-19.1 and P.L. 114-95, § 8528, Armed Forces Recruiter Access to Students and Student Recruiting Information of the Every Student Succeeds Act of 2015;

7. Provide, pursuant to (b) above, the parent or adult student a 10-day period to submit to the chief school administrator a written statement to exclude information from any school directory for official use;
  8. Assure limited access to student records by secretarial and clerical personnel pursuant to N.J.A.C. 6A:32-7.5;
  9. Provide for the access and security of student records maintained in an electronic system; and
  10. Maintain the confidentiality of all student records containing the name, Social Security number, address, and telephone number information, or the address for certified participants in the Address Confidentiality Program pursuant to N.J.A.C. 3A:71.
- (h) All anecdotal information and assessment reports collected on a student shall be dated and signed by the individual who originated the data.
- (i) The chief school administrator, or the chief school administrator's designee, shall require all student records of currently enrolled students to be reviewed annually by certified school personnel to determine the education relevance of the information contained therein. The reviewer shall cause information no longer descriptive of the student or educational program to be deleted from the record, except that prior notice shall be given for students with disabilities in accordance with N.J.A.C. 6A:14, Special Education. The deleted information shall be disposed of and not be recorded elsewhere. No record of any such deletion shall be made.
- (j) No liability shall be attached to any member, officer, or employee of any district board of education permitting access or furnishing student records in accordance with this subchapter.

- (k) When the parent's or adult student's dominant language is not English or the parent or adult student is deaf, the district board of education shall provide interpretation of the student records in the dominant language of the parent or adult student.
- (l) Student health records shall be maintained separately from other student records. Student health records also shall be maintained according to the requirements of this subchapter until such time as graduation or termination, whereupon the health history and immunization record shall be removed from the student's health record and placed in the student's mandated record.

**6A:32-7.2 School contact directory for official use**

- (a) Each district board of education shall compile and maintain a school contact directory for official use that is separate and distinct from the student information directory.
- (b) School personnel shall provide information from the school contact directory for official use only to judicial and law enforcement personnel, and to medical personnel currently providing services to the student in question. Upon request from a court, other judicial agency, law enforcement agency, or medical service provider currently providing services to the student in question, school personnel shall promptly verify the enrollment of a student and provide the requester with all information about the student that is contained in the school contact directory for official use.
- (c) A parent, adult student, or emancipated minor shall notify, in writing, the district board of education of their request to exclude any information from the school contact directory for official use.

### **6A:32-7.3 Mandated student records**

- (a) This section applies only to district boards of education and charter school and renaissance school project boards of trustees. Throughout this section, unless otherwise indicated, “district board of education” refers to the governing body of each of the three types of agencies.
- (b) Mandated student records shall include the following:
  - 1. The student’s name, address, telephone number, date of birth, name of parent(s), gender, standardized assessment results, grades, record of daily attendance, classes attended, grade level completed, year completed, and years of attendance;
  - 2. Descriptions of the student’s progress according to the district board of education’s student performance data;
  - 3. History and status of physical health compiled in accordance with State regulations, including immunizations and results of any physical examination(s) given by qualified school district employees;
  - 4. Records pursuant to rules and regulations regarding the education of students with disabilities; and
  - 5. All other records required by N.J.A.C. 6A.

### **6A:32-7.4 Maintenance and security of student records**

- (a) The chief school administrator, or the chief school administrator’s designee, shall be responsible for the security of student records maintained in the school district and shall devise procedures for assuring that access to student records is limited to authorized persons.
- (b) District boards of education may store all student records either electronically or in paper format.

1. When student records are stored electronically, proper security and backup procedures shall be administered.
- (c) Student health records, whether stored on paper or electronically, shall be maintained in accordance with N.J.A.C. 6A:32-7.1(l).
- (d) Records shall be accessible during the hours in which the school program is in operation.
- (e) Mandated student records required as part of programs established through State-administered entitlement or discretionary funds from the U.S. Department of Education shall be maintained for a period of five years after a student's graduation or termination from the school district, or to age 23, whichever is longer. The mandated student records shall be disposed of in accordance with N.J.S.A. 47:3-15 et seq.
- (f) A district board of education that establishes a website shall not disclose any personally identifiable information about a student, in accordance with N.J.S.A. 18A:36-35.

**6A:32-7.5 Access to student records**

- (a) Only authorized organizations, agencies, or persons, as defined in this section, shall have access to student records, including student health records.
- (b) The district board of education may charge a reasonable fee for reproduction of student records, not to exceed the schedule of costs set forth at N.J.S.A. 47:1A-5, provided that the cost does not effectively prevent parents or adult students from exercising their rights under this subchapter or other Federal and State rules and regulations regarding students with disabilities, including N.J.A.C. 6A:14.
- (c) Each district board of education shall control access to, disclosure of, and communication regarding information contained in student health records to assure access only to people permitted by Federal and State statute and regulations or as stated at (e) below.

- (d) Access to, and disclosure of, a student health record shall meet the requirements of the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and 34 CFR Part 99.
- (e) Organizations, agencies, and persons authorized to access student records shall include only the following:
  - 1. The student who has the written permission of a parent and the parent of a student under the age of 18, regardless of whether the child resides with the parent, except pursuant to N.J.S.A. 9:2-4;
    - i. The place of residence shall not be disclosed; and
    - ii. Access shall not be provided if denied by a court;
  - 2. Students at least 16 years of age who are terminating their education in the school district because they will graduate secondary school at the end of the term or no longer plan to continue their education;
  - 3. An adult student and/or a parent who has the written permission of an adult student, except that the parent shall have access without the adult student's consent, as long as the adult student is financially dependent on the parent and enrolled in the public school system, or if the adult student has been declared legally incompetent by a court of appropriate jurisdiction. The parent of a financially dependent adult student may not disclose information contained in the adult student's record to a second or third party without the adult student's consent;
  - 4. Certified school district personnel who are assigned educational responsibility for the student shall have access to the general student record but not to the student health record except under conditions permitted in N.J.A.C. 6A:16-2.4;

5. Certified educational personnel who have assigned educational responsibility for the student and who are employed by agencies listed below shall have access to the general student record, but not to the student health record, except under conditions permitted at N.J.A.C. 6A:16-2.4:
  - i. An approved private school for students with disabilities;
  - ii. A State facility;
  - iii. Accredited nonpublic schools in which students with disabilities have been placed pursuant to N.J.S.A. 18A:46-14; or
  - iv. Clinics and agencies approved by the Department;
6. To fulfill its legal responsibility, a district board of education shall have access through the chief school administrator, or the chief school administrator's designee, to information contained in a student's record. Information shall be discussed in executive session, unless otherwise requested by the parent or adult student;
7. Secretarial and clerical personnel under the direct supervision of certified school personnel shall be permitted access to portions of the record to the extent necessary for the entry and recording of data and the conducting of routine clerical tasks.

Access shall be limited only to student files in which such staff are directed to enter or record information, and shall cease when the specific assigned task is completed;
8. Accrediting organizations to carry out their accrediting functions;
9. The Commissioner and Department staff members who are assigned responsibility that necessitates the review of such records;

10. Officials of other district boards of education within the State or other educational agencies or institutions where the student is placed, registered, or seeks to enroll, subject to the following conditions:
  - i. Original mandated student records that schools have been directed to compile by New Jersey statute, regulation, or authorized administrative directive shall be forwarded to the receiving school district, agency, or institution with written notification to the parent or adult student;
  - ii. Original mandated student records that a district board of education has required shall be forwarded to the receiving school district, agency, or institution only with the written consent of the parent or adult student, except where a formal sending-receiving relationship exists between the school districts;
  - iii. All records to be forwarded, including disciplinary records as specified at N.J.S.A. 18A:36-19a, shall be sent to the chief school administrator of the school district to which the student has transferred, or the chief school administrator's designee, within 10 school days after the transfer has been verified by the requesting school district;
  - iv. The chief school administrator, or the chief school administrator's designee, shall request, in writing, all student records from the school district of last attendance within two weeks from the date that the student enrolls in the new school district;
  - v. Upon request, the chief school administrator of the school district of last attendance, or the chief school administrator's designee, shall provide a

parent(s) or an adult student with a copy of the records disclosed to other educational agencies or institutions; and

- vi. Proper identification, such as a certified copy of the student's birth certificate or other proof of the student's identity pursuant to N.J.S.A. 18A:36-25.1, shall be requested at the time of enrollment in a new school district;
11. Officials of the United States Department of Education assigned responsibilities that necessitate review of such records;
12. Officers and employees of a State agency responsible for protective and investigative services for students pursuant to N.J.S.A. 9:6-8.40. Wherever appropriate, district boards of education shall ask the State agency for its cooperation in sharing the findings of an investigation;
13. Agency caseworkers or other representatives of a State or local child welfare agency who have the right to access a student's case plan when the agency or organization is legally responsible, in accordance with State law, for the care and protection of the student, consistent with 20 U.S.C. § 1232g(b)(1)(L).
14. Organizations, agencies, and persons from outside the school if they have the written consent of the parent or adult student. Organizations, agencies, and persons shall not transfer student record information to a third party without the written consent of the parent or adult student;
15. Organizations, agencies, and individuals outside the school, other than those specified in this section, upon the presentation of a court order; and
16. Bona fide researchers who explain to the chief school administrator the nature of the research project and the relevance of the records sought. Prior to the release of

records to a researcher, the chief school administrator, or the chief school administrator's designee, shall receive from the researcher written assurance that the records will be used under strict conditions of anonymity and confidentiality.

- (f) Nothing in this section shall be construed to prohibit school personnel from disclosing information contained in the student health record to students or adults in connection with an emergency, if such knowledge is necessary to protect the immediate health or safety of the student or other persons.
- (g) In complying with this section, district boards of education and charter school and renaissance school project boards of trustees shall adhere to the requirements pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99.
  - 1. When responding to OPRA requests from any party, including parties other than those listed at (e) above, a district board of education or charter school or renaissance school project board of trustees may release, without consent, records removed of all personally identifiable information, as such documents do not meet the definition of a student record. Before making any release, the district board of education or charter school or renaissance school project board of trustees shall have made a reasonable decision that a student's identity cannot be determined whether through single or multiple releases, or when added to other reasonably available information.

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

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

1. No student record shall be altered or disposed of during the time period between a request to review the record and the actual review of the record.
2. Authorized organizations, agencies, and persons from outside the school whose access requires the consent of parents or adult students shall submit to the chief school administrator, or the chief school administrator's designee, the request in writing, together with any required authorization.
3. The chief school administrator, or the chief school administrator's designee, shall be present during the period of inspection to provide interpretation of the records, where necessary, and to prevent their alteration, damage, or loss. In every instance of inspection of student records by persons other than parents, students, or individuals who have assigned educational responsibility for the individual student, an entry shall be made in the student record of the name(s) of persons granted access, the reason access was granted, the time and circumstances of inspection, the records inspected, and the purposes for which the data will be used.
4. Prior to disclosure of student records to organizations, agencies, or persons outside the school district pursuant to a court order, the district board of education shall give the parent or adult student at least three days' notice of the name of the requesting agency and the specific records requested unless otherwise judicially instructed. The notification shall be provided in writing, if practicable. Only records related to the specific purpose of the court order shall be disclosed.
  - i. Notice to the parent shall not be required when the parent is party to a court proceeding involving child abuse and neglect or dependency matters, consistent with 20 U.S.C. § 1232g(b)(2)(B).

5. A record may be withheld from a parent or from an adult student only when the district board of education obtains a court order or is provided with evidence that there is a court order revoking the right to access. Only that portion of the record designated by the court order shall be withheld. When the district board of education has, or obtains, evidence of such court order, the parent or adult student shall be notified in writing within five days of the request that access to the record has been denied and that the person has the right to appeal the decision to the court issuing the order.

#### **6A:32-7.7 Rights of appeal for parents and adult students**

- (a) Student records are subject to challenge by parents and adult students on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information, or denial of access to organizations, agencies, and persons. The parent or adult student may request:
  1. Expungement of inaccurate, irrelevant, or otherwise improper information from the student record;
  2. Insertion of additional data, as well as reasonable comments regarding the meaning and/or accuracy of the student record;
  3. The immediate stay of disclosure pending final determination of the challenged procedure as described in this subchapter; and/or
  4. Immediate access to student records for organizations, agencies, and persons denied access, pending final determination of the challenged procedure, as described in this subchapter.

- (b) To request a change in the student record or to request a stay of disclosure pending final determination of the challenged procedure, a parent or adult student shall notify, in writing, the chief school administrator of the specific issues relating to the student record.
1. Within 10 school days of notification, the chief school administrator, or the chief school administrator's designee, shall notify the parent or adult student of the school district's decision. If the school district disagrees with the request, the chief school administrator, or the chief school administrator's designee, shall meet with the parent or adult student to resolve the issues set forth in the request.
  2. If the matter is not satisfactorily resolved, the parent or adult student has 10 school days to appeal the school district's decision.
  3. If an appeal is made to the district board of education, the district board of education shall render a decision within 20 school days.
  4. The decision of the district board of education may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, Controversies and Disputes. At all stages of the appeal process, the parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issue.
  5. A record of the appeal proceedings and outcome shall be made a part of the student record with copies made available to the parent or adult student.
- (c) Appeals relating to student records of students with disabilities shall be processed in accordance with the requirements of (b) above.
- (d) Regardless of the outcome of an appeal, a parent or adult student shall be permitted to place in the student record a statement commenting upon the information in the student record or setting forth any reasons for contesting a portion of the student record, including the decision

made in the appeal. The parent's or adult student's statement shall be maintained as part of the student record, as long as the contested portion of the student record is maintained. If the contested portion of the student record is disclosed to any party, the statement commenting upon the information shall also be disclosed to that party.

#### **6A:32-7.8 Retention and disposal of student records**

- (a) This section applies to only district boards of education and charter school and renaissance school project boards of trustees. Throughout this section, unless otherwise indicated, "district board of education" refers to the governing body of each of the three types of agencies.
- (b) A student record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., while the student is enrolled in the school district.
  - 1. The district board of education shall retain the student health record and the health history and immunization record according to the school district records retention schedule, as determined by the New Jersey State Records Committee.
- (c) Student records of currently enrolled students, other than the records described at (f) below, may be disposed of after the information is no longer necessary to provide educational services to a student. The disposition shall be carried out only after the parent or adult student has been notified in writing and written permission has been granted, or after reasonable attempts to notify the parent or adult student and to secure permission have been unsuccessful.
- (d) Upon graduation or permanent departure of a student from the school district:

1. The parent or adult student shall be notified in writing that a copy of the entire student record will be provided to them upon request.
  2. Information in student records, other than that described at (f) below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. The disposition shall be carried out only after the parent or adult student has been notified in writing and written permission has been granted, or after reasonable attempts to notify the parent or adult student and to secure permission have been unsuccessful and prior written authorization has been obtained from the New Jersey State Records Committee in the New Jersey Department of the Treasury.
- (e) No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent or adult student.
- (f) The school district of last enrollment, graduation, or permanent departure of the student shall keep, for 100 years, a mandated record of a student's name, date of birth, name of parents, gender, health history and immunization, standardized assessment results, grades, attendance, classes attended, grade level completed, year completed, and years of attendance.

### **Subchapter 8. Student Attendance and Accounting**

#### **6A:32-8.1 School register**

- (a) This subchapter applies to all district boards of education, charter schools, renaissance school projects, approved private schools for students with disabilities, and private agencies that provide educational services by means of public funds. Throughout this subchapter,

unless otherwise indicated, “district board of education” refers to the governing body of each of the five types of agencies.

- (b) District boards of education shall carefully and accurately track enrollment and attendance of all students in a manual school register format or in an electronic format of the school district’s choosing.
- (c) The Commissioner will issue and publish on the Department’s website guidance for recording student attendance in all public schools of the State operated by district boards of education, except adult high schools.
- (d) Student attendance shall be recorded in the school register during school hours on each day in session, pursuant to N.J.A.C. 6A:32-8.3. An employee designated by the chief school administrator shall keep in the school register, attendance of all students, and shall maintain the attendance records in accordance with this subchapter and the guidance at (c) above.
- (e) A student who has been placed on home instruction shall have their attendance status recorded on the regular register for the program in which the student is enrolled. The student shall be marked absent for the period beginning the first day the student is unable to attend school and ending the day before the first instructional day at the student’s place of confinement. Absences shall not be recorded for the student while on home instruction, provided the hours of instruction are no less than required by N.J.A.C. 6A:14-4.8 and 4.9 and 6A:16-10.1 and 10.2. The number of possible days in membership for a student on home instruction shall be the same as for other students in the program in which the student is enrolled.

### **6A:32-8.2 School enrollment**

- (a) The school enrollment in a program of instruction, a school, or a school district shall be the total number of original student entries in the school register plus the number of re-entries,

less the number of transfers, withdrawals, or dropouts in any such unit during a school year. The total number of original entries and re-entries, less the number of transfers, withdrawals, or dropouts, in all programs of instruction and schools of a school district shall constitute the school enrollment for the district board of education during any school year.

- (b) A student attending a school operated by a district board of education shall not be concurrently enrolled in more than one school register in any school district during a school year with the exception of shared-time students.
- (c) A student shall not be enrolled in a school register until the student has reached over the age of five years in accordance with N.J.S.A. 18A:38-1, Attendance at school free of charge. The district board of education may enroll students under the following legal school ages:
  - 1. Kindergarten: older than four years and younger than six years;
  - 2. State-funded preschool program: at least three years of age and younger than five years; and
  - 3. Preschool students with disabilities: at least three years of age and younger than five years.
- (d) Within 10 school days of the start of the school year, a school district shall determine whether a student who attended the previous year but not the current school year has an excused absence or has transferred, withdrawn, or dropped out of the school district.
- (e) Any student enrolled in a school district who moves to another school district in the same school year shall be included in the school register in the new school district upon enrollment.
- (f) The average daily enrollment in a school district for a school year shall be the sum of the total days in membership of all enrolled students when schools were in session during the

year, divided by the number of days in session. The average daily enrollment for the programs of instruction or schools of a school district having varying lengths of terms shall be the sum of the average daily enrollments obtained for the individual programs of instruction or schools.

### **6A:32-8.3 Day in session**

- (a) A day in session shall be a day on which the school is scheduled to provide instruction and students are under the guidance and direction of a teacher(s) engaged in the teaching process. A day on which school is closed for reasons such as holidays and teachers' institutes, or inclement weather not under conditions set forth at N.J.A.C. 6A:32-13, shall not be considered a day in session.
- (b) A day in session shall consist of not less than four hours, exclusive of recess and lunch periods, except that one continuous session of two and one-half hours may be considered a full day in kindergarten.

### **6A:32-8.4 Student attendance**

- (a) For all State attendance submissions, a student shall be recorded as present, absent, or excused for a State-excused absence, pursuant to (e) below, on every day the school is in session after the student enrolls until the date the student is transferred to another school or officially leaves the school district.
- (b) A record of attendance of all students shall be kept in accordance with N.J.A.C. 6A:32-8.1(c). The employee designated by the chief school administrator shall keep the attendance records according to this subchapter and the guidance issued by the Commissioner in accordance with N.J.A.C. 6A:32-8.1(c).

- (c) A student enrolled in a school shall be recorded in the school register as present if the student participates in instruction or instruction-related activities for at least half a day in session whether the student is physically on school grounds, at an approved off-grounds location, or in a virtual or remote instruction setting, pursuant to N.J.A.C. 6A:32-13.
- (d) A student enrolled in a school who is not participating in instruction or instruction-related activities pursuant to (c) above shall be recorded in the school register as absent, unless the student is recorded as a State-excused absence, pursuant to (e) below.
- (e) State-excused absences shall be as follows:
  - 1. Religious observance, pursuant to N.J.S.A. 18A:36-14, 15, and 16.
    - i. The Commissioner, with approval of the State Board of Education, shall annually prescribe a list of religious holidays on which it shall be mandatory to excuse students for religious observance upon the written request signed by the parent or person standing in *loco parentis*;
  - 2. Participation in observance of Veterans Day, pursuant to N.J.S.A. 18A:36-13.2;
  - 3. Participation in district board of election membership activities, pursuant to N.J.S.A. 18A:36-33;
  - 4. Take Our Children to Work Day;
  - 5. College visit(s), up to three days per school year for students in grades 11 and 12; and
  - 6. Closure of a busing school district that prevents a student from having transportation to the receiving school.
- (f) For absences that do not meet the criteria at (e) above, district boards of education may adopt policies that establish locally approved or excused absences consistent with N.J.A.C. 6A:16-7.6 for the purposes of expectations and consequences regarding truancy, student

conduct, promotion, retention, and the award of course credit. However, an absence designated as excused by the district board of education pursuant to N.J.A.C. 6A:16-7.6 shall be considered as an absence in the submission to the State for the purpose of chronic absenteeism reporting, as set forth at N.J.A.C. 6A:32-8.6.

#### **6A:32-8.5 Average daily attendance**

The average daily attendance rate in a school district school or program of instruction for a school year shall be the total number of the days present of all enrolled students, divided by the number of days in membership of all enrolled students. The student average daily attendance means the total number of days that a student is present in school divided by the total possible number of days in session.

#### **6A:32-8.6 Absentee and chronic absenteeism rates**

- (a) A student's absentee rate shall be determined by subtracting the student's total number of days present from the student's days in membership and dividing the result by the student's days in membership.
  - 1. State-excused absences shall not be included in a student's days in membership for purposes of calculating a student's absentee rate.
- (b) If a student's absentee rate is equal to or greater than 10 percent, the student shall be identified as chronically absent.
- (c) Each school with 10 percent or more of its enrolled students identified as chronically absent shall develop a corrective action plan to improve absenteeism rates. In accordance with N.J.S.A. 18A:38-25.1, the school will annually review and revise the corrective action plan and present the revisions to the district board of education, until the percentage of students who are chronically absent is less than 10 percent.

## **Subchapter 9. Athletics Procedures**

### **6A:32-9.1 General requirements**

- (a) A district board of education may adopt a program of sport activities that complies with N.J.S.A. 18A:36-37.
- (b) If the athletic facilities are not owned by the municipality or the district board of education, the district board of education shall require the owner to provide adequate safeguards for players and spectators. The field, room, court, track, stands, and surrounding premises shall be kept in good condition and free from hazards.
- (c) Upon the recommendation of the chief school administrator, the district board of education shall adopt and, thereafter, annually review a policy of emergency medical procedures for all practice sessions and competitive contests, games, events, or exhibitions with individual students or teams of one or more schools of the same or other school districts, whether conducted on public or private facilities. The policy shall be disseminated to appropriate personnel.
- (d) A student seeking to represent the school in interscholastic athletic competition and their parent, or an adult student, shall sign a form furnished by the district board of education.  
The form shall embody the following:
  - 1. A request to be a candidate for a place on a school squad or team in a specified sport;
  - 2. An acknowledgement that physical hazards may be encountered; and
  - 3. Consent of the student's parent or the adult student to participate.

## **Subchapter 10. Summer School Sessions**

### **6A:32-10.1 General**

- (a) A summer school session shall be operated by a district board of education in compliance with N.J.S.A. 18A:11-15.
- (b) Remedial, advancement, and enrichment courses may be offered during a summer school session to meet student needs.
- (c) Summer school sessions shall be separate from “extended school year services” as defined in N.J.A.C. 6A:14-1.3.
- (d) All school districts operating elementary and/or secondary summer school sessions shall conduct fire and school security drills pursuant to N.J.S.A. 18A:41-1.

#### **6A:32-10.2 Costs and tuition**

- (a) The district board of education may charge tuition in accordance with N.J.S.A. 18A:11-15 for any course provided during a summer school session to a student who resides in the school district.
- (b) The district board of education may charge tuition at an amount it determines for any course provided during a summer school session to a student not domiciled within the school district.

#### **6A:32-10.3 Staffing**

- (a) In each school, a member of the administrative, supervisory, or teaching staff who is certified as an administrator shall be assigned the responsibilities of administration and supervision of the summer session.
- (b) District boards of education conducting summer school sessions shall employ teachers who possess valid certificates for the subjects taught. Curriculum enrichment may involve

resource persons serving for specific periods of time under the supervision of a certified administrator, supervisor, or teacher.

**6A:32-10.4 Student assignment and credit**

- (a) The assignment of students in a summer school session for remedial courses shall be based upon the recommendation of the principal of the school the student regularly attends, in accordance with district board of education policies. The principal's written recommendation shall state the name of the subject(s) the student may take and the purpose for each subject.
- (b) An evaluation and a description of work completed shall be included in the student's cumulative record. The principal of the sending school shall determine the grade placement of the student.
- (c) To receive advanced credit for a subject not previously taken, the student shall receive class instruction in summer session under standards equal to the standards taught during the regular term.
- (d) Full-year subjects given for remediation that carry credit or placement consequences for students shall be conducted for 60 hours of instruction under standards equal to the standards taught during the regular term or through an established number of curricular activities as determined by the district board of education.
- (e) Credit for work taken in an approved elementary or secondary school summer session shall be transferable in the same manner as work taken in any approved elementary or secondary school, in accordance with district board of education policy.
- (f) The principal shall give prior approval for work to be taken at other educational institutions or environments, which shall include, but not be limited to, other public and private schools, institutions of higher education, and online courses.

- (g) The amount of time a student spends receiving class instruction shall become part of the student's permanent record and shall be included whenever the student's record is transferred to another school.

### **Subchapter 11. Withdrawal from Regional School Districts**

#### **6A:32-11.1 Application and data for investigation of advisability of withdrawal or dissolution**

- (a) The district board of education of any school district constituting part of a limited-purpose regional school district, the governing body of a limited-purpose regional school district, or the governing body of any municipality constituting part of an all-purpose regional school district may apply to the executive county superintendent to investigate the advisability of withdrawal of constituent school district or municipality from the regional school district.
- (b) A majority of the boards of education of the school districts that constitute a limited-purpose regional school district and a majority of the governing bodies of the municipalities that constitute the constituent school districts of a limited-purpose regional school district may apply, by separate resolutions, to the executive county superintendent to investigate the advisability of the dissolution of the regional district.
- (c) The resolutions requesting that the executive county superintendent make such an investigation shall be adopted by a recorded roll call vote of the majority of the full membership.
- (d) The resolution request(s) submitted to the executive county superintendent shall include the following information:
  - 1. A general description of the regional school district and of the withdrawing constituent school district, including, but not limited to, the type of educational

system, number of schools, grade levels served, community population, and geographical characteristics;

2. Enrollment data, including, but not limited to, the number of students enrolled as reported by grade on the Annual Application for State School Aid and estimated projected enrollments, by grade level, for the succeeding five school years for both the withdrawing school district or municipality and the remaining regional school district, based on growth factors using average percentages for the last three school years;
  3. The racial composition of the withdrawing school district's or municipality's student population enrolled in the regional school district, and the effect of such withdrawal upon the racial composition of the remaining student population of the regional school district;
  4. Two appraisals of each school site that is part of the regional school district prepared by qualified appraisers.
    - i. If two or more constituent school districts or municipalities request such a study, the selection of the appraisers and the cost of the required appraisals shall be made jointly and shared; and
  5. The proposed educational plan for the students from the withdrawing school district or municipality presently enrolled in the school(s) of the regional school district.
- (e) Within 21 days following adoption of the resolution, the adopting body shall confer with the remaining constituent school districts and/or the governing bodies of the constituent municipalities, the regional district board of education, and the executive county superintendent to review the procedure required for withdrawal from a regional school

district. The executive county superintendent may call the conference at the request of a constituent school district or municipality prior to its adoption of the resolution.

**6A:32-11.2 Investigation and report by executive county superintendent**

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

1. A general description of the regional school district, including the number of constituent school districts, school buildings, area of the total school district, and area of the withdrawing school district or municipality;
2. Enrollment data, including the number of students enrolled as reported by grade on the Annual Application for State School Aid and estimated projected enrollment, by grade level, for the succeeding five school years for both the withdrawing school

district or municipality and the remaining regional school district. The estimated projected enrollments shall be based on growth factors using average percentages for the last three school years and a review of municipal planning documents (master plan elements, zoning maps), including any annual reports or summaries of land-use approvals within the past five years;

3. Enrollment data, by grade level, showing the racial composition of the present regional student population and the resulting racial composition for both the withdrawing school district or municipality and the remaining regional school district if withdrawal were to be approved;
4. The operating expenses of the regional school district for the present school year including the distribution of current operating expenses among the constituent school districts or municipalities;
5. The equalized valuation of each constituent school district or municipality of the regional school district as set forth in N.J.S.A. 18A:7F-45;
6. The average equalized valuations of the real property of each constituent school district or municipality of the regional school district as set forth in N.J.S.A. 18A:24-1 et seq.;
7. The borrowing margin of each constituent school district or municipality of the regional school district as determined by N.J.S.A. 18A:24-1 et seq., and the revised borrowing margin of each constituent school district or municipality and the withdrawing school district or municipality, if approval were to be granted;
8. The apportionment by dollar amounts and percentages of debt service for the current school year among all the constituent school districts or municipalities of the regional school district;

9. The replacement costs of school buildings, additions, grounds, furnishings, and equipment of the regional school district, and the replacement cost of any school building, additions, grounds, furnishings, and equipment of the regional school district situated in the withdrawing school district or municipality. The Department will calculate the school building replacement costs as follows:
    - i. The current overall cost per square foot for school construction in New Jersey, updated in the fall of each year, will be multiplied by the gross area of the building. The figure shall include construction costs, moveable and built-in furniture and equipment, and fees; and
    - ii. Site costs will be excluded since they are already included under N.J.A.C. 6A:26-7.1(a).
  10. The amount of indebtedness, if any, to be assumed by the withdrawing constituent school district or municipality;
  11. The distribution of assets and liabilities of the existing regional school district and remaining regional school district following withdrawal in the manner provided by N.J.S.A. 18A:8-24;
- (b) The executive county superintendent report shall include, but not be limited to, the following:
1. A proposed educational plan for the withdrawing constituent school district or municipality, if withdrawal were to be approved, including the effects of such withdrawal upon the educational program of the remaining regional school district and on the provision of adequate public school facilities and services at a reasonable cost;
  2. A summary of the advantages and disadvantages of withdrawal to both the withdrawing constituent school district or municipality and the remaining regional school district; and

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

#### **6A:32-11.3 Special school election**

- (a) If the application is granted upon completion of the procedures at N.J.S.A. 18A:13-54 to 56 or 18A:13-69 to 71, the executive county superintendent shall confer with the regional district board of education and the boards of education of the constituent school districts of a limited-purpose regional school district or the constituent municipal governing bodies of an all-purpose regional school district and fix a day and time for holding a special school election, in accordance with N.J.S.A. 18A:13-57 or 18A:13-72.
- (b) To be effective, the proposal shall be adopted by a majority of the legal votes cast within the withdrawing constituent school district or municipality, and, in addition, a majority of the combined legal votes cast within the remainder of the regional school district.

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

The board of review, which shall consist of the Commissioner as chairperson, the State Treasurer or designee, and the Director of the Division of Local Government Services in the Department of Community Affairs, shall include in its final determinations required by N.J.S.A. 18A:13-56 or 18A:13-71, any specific conditions under which its consent is granted to ensure that a thorough and efficient system of public schools will be maintained in the withdrawing school district(s) or

municipality(ies) and the remaining regional school district, or in the remaining constituent school districts in the event of a dissolution.

#### **6A:32-11.5 Effective date of withdrawal**

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

### **Subchapter 12. Kindergarten**

#### **6A:32-12.1 Kindergarten programs**

- (a) School districts offering approved kindergarten programs shall provide each student enrolled with a balanced program using adequate equipment, materials, and supplies. School districts shall design a balanced kindergarten program to meet the individual needs of every student and may include instruction in reading and other subjects when the teacher of the class determines that a student is ready for such instruction.
- (b) Each kindergarten teacher shall be properly certified pursuant to N.J.A.C. 6A:9B, State Board of Examiners and Certification, and in accordance with the *Abbott v. Burke* decision, *Abbott v. Burke*, 153 N.J. 480 (1998) (“*Abbott V*”); 177 N.J. 578 (2003) (“*Abbott X*”).
- (c) School districts that are not subject to the *Abbott v. Burke* decisions at 153 N.J. 480 (1998) and 177 N.J. 578 (2003) (“*Abbott decisions*”) or the provisions at N.J.A.C. 6A:13-3.2 shall maintain a maximum enrollment for a kindergarten classroom of 25 students per teacher. School districts subject to the *Abbott* decisions or in which 40 percent or more of the

students are “at-risk” as defined at P.L. 2007, c. 260 shall follow the provisions for kindergarten at N.J.A.C. 6A:13-3.2.

1. School districts that are not subject to the *Abbott* decisions or the provisions at N.J.A.C. 6A:13-3.2 may submit a written request to the executive county superintendent for permission to increase the number of students in a kindergarten classroom, provided another teacher, a paraprofessional is employed full-time to provide for the increased size.

### **Subchapter 13. Virtual or Remote Instruction**

#### **6A:32-13.1 Virtual or remote instruction**

- (a) This section applies to all district boards of education, charter school and renaissance school project boards of trustees, and private agencies that provide educational services by means of public funds. Throughout this section, unless otherwise indicated, “district board of education” refers to the governing body of each of the four types of agencies.
- (b) If the State or local health department determines that it is advisable to close, or mandates closure of, the schools of a school district due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure for more than three consecutive school days, the chief school administrator shall have the authority to implement the school district’s program of virtual or remote instruction, pursuant to N.J.S.A. 18A:7F-9.
  1. If implemented by the chief school administrator, the school district’s program of virtual or remote instruction shall be provided to an enrolled student, whether a

general education student in preschool through grade 12 or a student with a disability aged three to 21.

- i. The school district shall provide students with a disability with the same educational opportunities provided to general education students to the extent appropriate and practicable.
- ii. Related services may be delivered to general education students and students with a disability through the use of electronic communication or a virtual or online platform, as appropriate.

(c) The district board of education may apply to the 180-day requirement established pursuant to N.J.S.A. 18A:7F-9.b, one or more days of virtual or remote instruction under the following conditions:

1. Virtual or remote instruction is provided to students on the day(s) that some or all of the programs of instruction of the school district were closed to in-person instruction;
2. The virtual or remote instruction meets the Commissioner-established criteria for the occurrence of one of the events at (b) above;
3. The school district's program of virtual or remote instruction:
  - i. Explains, to the greatest extent possible, the equitable delivery of, and access to, virtual and remote instruction, including descriptions of the following:
    - (1) The design of synchronous and/or asynchronous virtual or remote learning plans that will maximize student growth and learning;

- (2) How the school district will continuously measure student growth and learning in a virtual or remote instruction environment; and
  - (3) The school district's plan for measuring and addressing any ongoing digital divide issue(s), including a lack of access to the internet, network, or devices;
- ii. Addresses the needs of students with disabilities and includes descriptions of the following:
  - (1) The delivery of virtual or remote instruction in order to implement, to the greatest extent possible, students' individualized education programs (IEPs), including material and platform access;
  - (2) The methods used to document IEP implementation, including the tracking of student progress, accommodations, and modifications;
  - (3) How case managers follow up with parents to ensure services are implemented, to the greatest extent possible, in accordance with IEPs; and
  - (4) How the school district plans to conduct IEP meetings, evaluations, and other meetings to identify, evaluate, and/or reevaluate students with disabilities;
- iii. Addresses the needs of multilingual learners (MLs) and include the following:
  - (1) How the school district includes an English as a second language (ESL) and/or bilingual education program aligned with State and Federal requirements to meet the needs of MLs;

- (2) The process to communicate with parents of MLs, including providing translation materials, interpretative services, and information available at the parent’s literacy level;
  - (3) The use of instructional adaptations, for example, differentiation, sheltered instruction, Universal Design for Learning, access to technology, and strategies to ensure MLs access the same standard of education as non-ML peers; and
  - (4) The training for teachers, administrators, and counselors to learn strategies related to culturally responsive teaching and learning, social-emotional learning, and trauma-informed teaching for students affected by forced migration from their home country;
- iv. Accounts for student attendance in accordance with (d) below and includes the following:
- (1) A description or copy of the school district’s attendance policies, including how the school district will determine whether a student is present or absent during virtual or remote instruction, and how a student’s attendance will factor into promotion, retention, graduation, discipline, and any other decisions that will reflect the student’s performance;
- v. Describes how the school district is communicating with the parents when a student is not participating in virtual or remote instruction and/or submitting assignments;
- vi. Includes a plan for the continued safe delivery of meals to eligible students;

- vii. Includes an outline of how buildings will be maintained throughout an extended period of closure; and
  - viii. Includes district-specific factors, including, but not limited to, considerations for Title I extended learning programs, 21st Century Community Learning Center Programs, credit recovery, other extended student learning opportunities, accelerated learning, and social and emotional health of staff and students, transportation, extra-curricular programs, childcare, and community programming; and
4. The district board of education submitted a proposed program of virtual or remote instruction to the Commissioner within 30 days of the effective date of P.L. 2020, c. 27 and, thereafter, by July 31 annually.
- i. If the district board of education is unable to complete and submit a proposed program by July 31 annually, and the school district is required to close its schools for a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the Commissioner may retroactively approve the program.
- (d) If provided under the district board of education's program that has been approved by the Commissioner, student attendance for a day of virtual or remote instruction shall be accounted for in accordance with N.J.A.C. 6A:32-8.4 for the purposes of meeting State and local graduation requirements, the awarding of course credit, and other matters as determined by the Commissioner.

**6A:32-13.2 Virtual or remote instruction in approved private schools for students with disabilities (APSSDs)**

- (a) If the State or local health department determines that it is advisable to close, or mandates closure of, an approved private schools for students with disabilities (APSSD) due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure for more than three consecutive school days, the full-time non-teaching principal shall have the authority to implement the APSSD’s Department-approved program of virtual or remote instruction.
- (b) The APSSD may apply one or more days of virtual or remote instruction to qualify as a day of instruction for the purposes of calculating tuition pursuant to N.J.S.A. 18A:46-21.1.a, under the following conditions:
  - 1. Virtual or remote instruction is provided to students on the day(s) that some or all of the programs of instruction of the APSSD were closed to in-person instruction;
  - 2. The virtual or remote instruction meets the Commissioner-established criteria for the occurrence of one of the events at (a) above;
  - 3. The APSSD’s program of virtual or remote instruction shall include the criteria at N.J.A.C 6A:32-13.1(c)3; and
  - 4. The APSSD submitted a proposed program of virtual or remote instruction to the Commissioner and the sending district board(s) of education within 30 days of the effective date of P.L. 2020, c. 27 and, thereafter, by July 31 annually.
    - i. If the APSSD is unable to complete and submit a proposed program by July 31 annually, and the APSSD is required to close for a declared state of

emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the Commissioner may retroactively approve the program.

- (c) If provided under a Commissioner-approved program, student attendance for a day of virtual or remote instruction shall be accounted for in accordance with N.J.A.C. 6A:32-8.4 for the purposes of meeting State and local graduation requirements, the awarding of course credit, and other matters as determined by the Commissioner.
- (d) The virtual or remote instruction shall be consistent with the student's individualized education program (IEP) to the extent appropriate and practicable and shall meet the New Jersey Student Learning Standards.

## **Subchapter 14. Voter Registration**

### **6A:32-14.1 Distribution**

District boards of education, appropriate school official(s) in nonpublic schools with high schools, and private agencies that provide educational services to high schools by means of public funds shall provide to each eligible high school student prior to the school year's graduation date a voter registration form, a summary of voter registration eligibility requirements, and materials describing the role of a citizen and the importance of voting, pursuant to N.J.S.A. 18A:36-27.

### **6A:32-14.2 Statement of assurance**

The chief school administrator of a public school district, the administrator of a nonpublic school with high schools, or the head administrator of a private agency that provides educational services for high schools by means of public funds shall sign a statement of assurance and submit it to the

executive county superintendent no later than June 30 each year. The statement of assurance shall affirm the distribution of voter registration forms, a summary of voter registration eligibility requirements, and materials describing the role of a citizen and the importance of voting.