

# N.J.A.C. 6A:7, Managing for Equity in Education

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## Chapter 7. Managing for Equity in Education

### Subchapter 1. General Provisions

#### 6A:7-1.1 Purpose

- (a) The purpose of this chapter is to ensure all students, regardless of housing status, socioeconomic status, immigration status, or any protected category as stated at N.J.S.A. 10:5-1 et seq., such as race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, religion, disability, atypical hereditary cellular or blood trait, service in the Armed Forces of the United States, or nationality, are provided equal access to educational activities and programs by district boards of education. The educational activities and programs include the teaching of challenging curriculum based on the New Jersey Student Learning Standards (NJSLS), differentiated instruction, formative assessments aligned to the NJSLS, qualified teachers, and professional standards for teachers and school leaders.
- (b) The rules specify standards for district boards of education in establishing policies and procedures for the provision of educational activities and programs for all students, pursuant to: Article I, Paragraph 5 of the New Jersey State Constitution; the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.); N.J.S.A. 18A:35-1 et seq., 18A:36-20, and 18A:38-5.1; Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq. and 2000e et seq.); Title IX of Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701 et seq.); and the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.).

### **6A:7-1.2 Scope**

The rules in this chapter specify standards that apply to district boards of education providing general education services to students in preschool through grade 12, special education services to students ages three through 21, or adult education programs, and to charter schools and renaissance school projects. Throughout this chapter, unless otherwise indicated, “district board of education” and “school district” refer to the governing body of school districts, charter schools, and renaissance school projects.

### **6A:7-1.3 Definitions**

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

“Achievement gap” means the difference in academic performance among student groups as a result of membership in one or more of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

“Affectional or sexual orientation” means male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, identity, or expression, having a history thereof, or being perceived, presumed, or identified by others as having such an orientation.

“Amistad Commission curriculum” means instructional content, materials, and methods that were developed in consultation with the Amistad Commission and infused into the New Jersey Student Learning Standards (NJSLs) in accordance with N.J.S.A. 18A:35-4.42 and 4.43. The Amistad Commission curriculum, as infused into the NJSLs, is designed to enable students to learn and develop an understanding of the persecution, emancipation, discrimination, achievements, and contributions by people of African descent and how the experiences helped to transform America and continue to contribute toward the emergence of a global society.

“Chief school administrator” means the superintendent, the administrative principal if there is no superintendent, or charter school lead person and renaissance school project administrator.

“Commission on Holocaust Education curriculum” means instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education and infused into the New Jersey Student Learning Standards (NJSLS) and that meet the Holocaust/genocide mandate set forth at N.J.S.A. 18A:35-28. Materials and curricula are designed to enable students to understand that: genocide is a consequence of prejudice, bias, intolerance, and discrimination; issues of moral dilemma and conscience have a profound effect upon a society; and all citizens share a responsibility to oppose prejudice and discrimination in all facets of their lives.

“Comprehensive equity plan” means a plan designed specifically to ensure an equitable educational opportunity is available to all students through the identification and correction of discriminatory and inequitable practices prohibited by State and Federal law.

“Discriminatory practices” means a policy, action, or failure to act that limits or denies equal access to, or benefits from, the educational activities and programs of a school, or that generates or permits injustice or unfair or otherwise inequitable treatment of students or staff on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

"Educational activities and programs" means all activities and programs conducted, sponsored, or permitted by the school during the school day, after regular school hours, on weekends, or during the summer months.

"Educational equity" means a cohesive set of policies, programs, and practices that emphasizes high expectations and achievement patterns, and ensures equitable access to educational opportunity for all learners, including students and teachers.

“Equitable educational opportunity” means the creation of environments that enable the provision of a thorough and efficient education as defined by the NJSLs, differentiated instruction, formative assessments aligned to the NJSLs, and high expectations for teaching and learning in a school district; when the curriculum is designed to enable students to learn and develop an understanding of the events and major contributions by people and groups of people that have shaped and continue to shape the United States of America and the global society; when prejudice and other forms of discrimination have been eliminated in the school district’s policies, practices, and curricula, as evidenced through the narrowing of the opportunity gap; and when all students and staff enjoy equitable access to all programs and benefits provided by, or offered within, the school district.

“Equity” means all students have the opportunity to master the goals of the curriculum in an educational environment that is fair, just, and impartial to all individuals. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes.

“Formative assessments” means classroom assessments aligned to the NJSLs administered on an ongoing basis to inform instruction and monitor student progress.

“Gender identity or expression” means having or being perceived as having a gender-related identity or expression whether or not stereotypically associated with a person’s assigned sex at birth.

"Multicultural curriculum" means to incorporate throughout the curriculum the experiences, perspectives, and accomplishments of persons of diverse racial and cultural backgrounds, ethnicities, and national origins that comprise the American society. It also means to develop among students a respect for self and others, an appreciation of diversity, and the acquisition of attitudes, skills, and knowledge needed to function effectively with persons of diverse cultures.

“Opportunity gap” means the difference in access to educational activities and programs as a result of membership in one or more of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

"Prejudice" means feelings, opinions, attitudes, or perceptions that produce disparate educational or hiring treatment of, or have adverse educational or hiring impact upon, any person or group of persons on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

#### **6A:7-1.4 Responsibilities of the district board of education**

- (a) Each district board of education shall adopt and implement written educational equity policies that:
  - 1. Recognize and value the diversity of persons and groups within the community and promote the acceptance of persons of diverse backgrounds regardless of the protected categories listed at N.J.A.C. 6A:7-1.1(a); and
  - 2. Promote equitable educational opportunity and foster through the policies, programs, and practices of the district board of education a learning environment that is free from all forms of prejudice, discrimination, and harassment based upon the protected categories listed at N.J.A.C. 6A:7-1.1(a).
- (b) The district board of education shall inform the school community of its policies in a manner including, but not limited to, the school district's customary methods of information dissemination.
- (c) Each district board of education shall develop, once every three years, a comprehensive equity plan that shall identify and correct all discriminatory and inequitable educational policies, patterns, programs, and practices affecting its facilities, programs, students, and staff.
  - 1. Prior to developing the comprehensive equity plan, the district board of education shall assess the school district's needs for achieving equity in educational activities and programs based on an analysis of data including, but not limited to, National Assessment of Educational Progress and State assessment results, preschool-through-grade-12 promotion/retention data, preschool-through-grade-12 completion rates, and re-examination and re-evaluation of classification and

placement of students in special education programs if there is overrepresentation within the protected categories listed at N.J.A.C. 6A:7-1.1(a); staffing practices; student demographic data; attendance data; quality of program data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs; discipline, graduation rate, and postsecondary enrollment; student, staff, and community member interviews; enrollment and scoring in advanced classes; teacher workforce diversity; and stakeholder satisfaction data. The needs assessment shall identify discriminatory practices and other barriers to achieving equity in educational activities and programs, if applicable.

2. The comprehensive equity plan shall address:
    - i. Professional development, pursuant to N.J.A.C. 6A:7-1.6; and
    - ii. Equity in school and classroom practices, educational activities, and programs pursuant to N.J.A.C. 6A:7-1.7.
  3. The comprehensive equity plan shall include measurable and actionable goals, objectives, timelines, and benchmarks for measuring progress.
  4. The district board of education shall submit the comprehensive equity plan to the executive county superintendent for confirmation of completion.
    - i. If the executive county superintendent determines that the comprehensive equity plan is not complete, the district board of education shall revise the plan in accordance with the executive county superintendent's instructions and shall submit to the executive county superintendent the revised plan within 30 days of the notification of incompleteness.
- (d) Each district board of education shall submit to the executive county superintendent at the end of each school year a statement of assurance regarding achieving the objectives of the comprehensive equity plan. The chief school administrator also shall certify in the statement of assurance to the following:

1. The school district will continue to maintain compliance with N.J.A.C. 6A:7; Titles VI and VII of the Civil Rights Act of 1964; the Guidelines for the Desegregation of Public Schools in New Jersey; and the Rehabilitation Act of 1973 (29 U.S.C. § 794);
2. The school district will perform all required activities as provided for in this chapter and annually report such assurances to the district board of education;
3. The school district will continue to implement its comprehensive equity plan; and
4. The school district has evaluated the comprehensive equity plan for effectiveness and has submitted a revised comprehensive equity plan to the executive county superintendent, if necessary.
5. The district board of education will provide a resolution approving the affirmative action officer for each school year of the three-year comprehensive plan.

#### **6A:7-1.5 Affirmative action officer**

- (a) Each district board of education annually shall designate a member of its staff as the affirmative action officer and form an affirmative action team to coordinate and implement the chapter's requirements. Each district board of education shall ensure all stakeholders know who the affirmative action officer is and how to contact the affirmative action officer.
  1. The affirmative action officer shall have a New Jersey standard certificate with an administrative, instructional, or educational services endorsement, pursuant to N.J.A.C. 6A:9B, State Board of Examiners and Certification.
  2. The affirmative action officer shall:
    - i. Coordinate the required professional development training for all personnel, pursuant to N.J.A.C. 6A:7-1.6;

- ii. Notify all students and employees of the school district's grievance procedures for handling discrimination complaints;
  - iii. Ensure the school district's grievance procedures, including investigative responsibilities and reporting information, are followed; and
  - iv. Serve as a member of the affirmative action team.
3. The affirmative action officer may also serve as the school district's Title IX coordinator;
4. The affirmative action team shall:
  - i. Include, to the extent possible, members who represent the diversity of the school district's student population;
  - ii. Develop the comprehensive equity plan, pursuant to N.J.A.C. 6A:7-1.4(c);
  - iii. Oversee the implementation of the school district's comprehensive equity plan, pursuant to N.J.A.C. 6A:7-1.4(c);
  - iv. Collaborate on coordination of the required professional development training for all personnel, pursuant to N.J.A.C. 6A:7-1.6;
  - v. Monitor the implementation of the comprehensive equity plan; and
  - vi. Conduct the annual school district internal monitoring to ensure continuing compliance with State and Federal statutes governing educational equity, pursuant to N.J.A.C. 6A:7-1.4(d).

#### **6A:7-1.6 Professional development**

- (a) Each district board of education shall provide, on a continuing basis, professional development training for all school personnel to identify and resolve problems associated with the student achievement and opportunity gaps and other inequities on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

1. The professional development training shall be differentiated based on staff position type and shall be based on the analysis of data conducted pursuant to N.J.A.C. 6A:7-1.4(c)1.
  2. The district board of education shall ensure that parents and other community members are aware of professional development training provided to school district personnel regarding topics around equity.
  3. The district board of education shall ensure all new personnel are provided within the first 90 days of employment with professional development training on educational equity issues.
- (b) The Commissioner or the Commissioner's designee shall provide technical assistance to school districts for the development of policy guidelines, procedures, and in-service training for affirmative action officers to aid in the elimination of prejudice on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

**6A:7-1.7 Equity in school and classroom practices**

- (a) Each district board of education shall provide all students with equitable and bias-free access to all school facilities, courses, programs, activities, and services, regardless of the protected categories listed at N.J.A.C. 6A:7-1.1(a), by:
1. Ensuring barrier-free access to all school and classroom facilities;
  2. Attaining, within each school, minority representation that approximates the school district's overall minority representation. Exact apportionment is not required; the ultimate goal is a reasonable plan achieving the greatest degree of a representative balance that is feasible and consistent with sound educational values and procedures;
  3. Utilizing, on an annual basis, a State-approved English language proficiency assessment that evaluates a student's English language proficiency on the four

domains of listening, speaking, writing, and reading for determining the eligibility and placement of students who may be identified as multilingual learners, pursuant to N.J.A.C. 6A:15-1.3(a)3;

4. Utilizing bias-free multiple measures for determining the special needs of students with disabilities, pursuant to N.J.A.C. 6A:14-3.4;
5. Ensuring support services, including intervention and referral services and school health services, pursuant to N.J.A.C. 6A:16, are available to all students; and
6. Ensuring a student is not discriminated against because of a medical condition. A student shall not be excluded from any education program or activity because of a long-term medical condition unless a physician certifies such exclusion is necessary.
  - i. If excluded, the student shall be provided with equivalent and timely instruction that may include home instruction, without prejudice or penalty.

(b) Each district board of education shall ensure the school district's curriculum and instruction are aligned to the New Jersey Student Learning Standards (NJSLS). The district board of education also shall ensure its curriculum and instruction address the elimination of discrimination by narrowing the achievement and opportunity gaps, by providing equity in educational activities and programs, and by providing opportunities for students to interact positively with others regardless of the protected categories listed at N.J.A.C. 6A:7-1.1(a), by:

1. Ensuring there are no differential requirements for completion of course offerings or programs of study solely on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a);
2. Ensuring courses shall not be offered separately on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a);
  - i. Portions of classes that deal exclusively with human sexuality may be conducted in separate developmentally appropriate sessions based on

gender identity, provided the course content for such separately conducted sessions is the same;

3. Increasing and promoting equitable representation of all students in all classes and programs;
  4. Ensuring schools demonstrate the inclusion of a multicultural curriculum in its instructional content, materials, and methods, and ensuring students understand the basic tenet of multiculturalism;
  5. Ensuring the Amistad Commission Curriculum is infused into the curriculum and is taught;
  6. Ensuring the Commission on Holocaust Education curriculum is included in the curriculum of all elementary and secondary schools, as developmentally appropriate, pursuant to N.J.S.A. 18A:35-28; and
  7. Ensuring that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning any of the protected categories listed at N.J.A.C. 6A:7-1.1(a) or curriculum developed by any commissions constituted for the development of curriculum concerning any of the protected categories listed at N.J.A.C. 6A:7-1.1(a).
- (c) The district board of education shall ensure all students have access to adequate and appropriate counseling services.
1. When informing students about possible careers or professional or vocational opportunities, the district board of education shall not restrict or limit the options presented to students on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).
  2. The district board of education shall not use tests or guidance or counseling materials that are biased or stereotyped on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

(d) The district board of education shall ensure the school district's physical education is in a co-educational setting that is developmentally appropriate and does not discriminate on the basis of the protected categories listed at N.J.A.C. 6A:7-1.1(a), as follows:

1. The district board of education shall provide separate restroom, locker room, and shower facilities on the basis of gender, but such facilities provided for students of each gender shall be comparable;
2. A school district may choose to operate separate teams based on sex in one or more sports or single teams open competitively to members of all sexes, as long as the athletic program as a whole provides equal opportunities for students of all sexes to participate in sports at comparable levels of difficulty and competency; and
3. The activities comprising such athletic programs shall receive equitable treatment, including, but not limited to, staff salaries, purchase and maintenance of equipment, quality and availability of facilities, scheduling of practice and game time, length of season, and all other related areas or matters.

#### **6A:7-1.8 Accountability**

- (a) The district board of education's obligation to be accountable for the chapter's requirements is not precluded or alleviated by any rule or regulation of any recreational organization, club, athletic association, or other league or organizing group.
- (b) Each school district shall complete a comprehensive equity plan that includes a cohesive set of policies, programs, and practices that ensure high expectations, positive achievement patterns, and equitable access to educational opportunities for all learners, including students and teachers.
- (c) The comprehensive equity plan shall include the following:
  1. An assessment of the school district's needs for achieving equity in educational activities and programs. The assessment shall include staffing practices, quality-of-

program data, stakeholder-satisfaction data, and student assessment data disaggregated by gender, race, ethnicity, multilingual learner status, homeless status, special education, migrant, date of enrollment, student suspension, expulsion, child study team referrals, preschool-through-grade-12 promotion/retention data, preschool-through-grade-12 completion rates, attendance data, and re-examination and re-evaluation of classification and placement process of students in special education programs if there is disproportionality within certain groups;

2. A description of how other Federal, State, and school district policies, programs, and practices are aligned to the comprehensive equity plan;
  3. Progress targets for closing the achievement and opportunity gaps;
  4. Professional development targets regarding the knowledge and skills needed to provide a thorough and efficient education as defined by the New Jersey Student Learning Standards (NJSLS), differentiated instruction, and formative assessments aligned to the NJSLS and professional standards for teachers and school leaders; and
  5. Annual targets that address school district needs in equity in school and classroom practices and are aligned to professional development targets.
- (d) The district board of education shall implement the comprehensive equity plan within 60 days of the executive county superintendent's certification of completion.
- (e) If the district board of education does not implement the comprehensive equity plan within 60 days of the executive county superintendent's certification of completion date, or fails to report its progress annually, sanctions deemed to be appropriate by the Commissioner or the Commissioner's designee shall be imposed. Sanctions may include action to suspend, terminate, or refuse to award continued Federal or State financial assistance, pursuant to N.J.S.A. 18A:55-2.