

Public Notice

Education

State Board of Education

Notice of Action on Petition for Rulemaking

Programs to Support Student Development

School Safety and Security Plans

N.J.A.C. 6A:16-5.1

Petitioners: American Civil Liberties Union of New Jersey; Disability Rights New Jersey; Education Law Center; Make the Road New Jersey; NAACP New Jersey State Conference; Newark Communities United for Accountable Policing; New Jersey Institute for Social Justice; New Jersey Policy Perspective; New Jersey Coalition for Bullying Awareness and Prevention; New Jersey Communities United; NJ21United; People's Organization for Progress; Save Our Schools NJ; Social-Emotional Learning Alliance for New Jersey (SEL4NJ); SPAN Parent Advocacy Network; Students for Prison Education, Abolition and Reform; The Inclusion Project; The Kennedy Forum; and The School Culture and Climate Initiative.

Take notice that on May 10, 2022, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioners, requesting the State Board and Commissioner of Education (Commissioner) amend N.J.A.C. 6A:16-5.1 to promulgate regulations on the use of State categorical security aid provided, pursuant to the School Funding Reform Act (SFRA) at N.J.S.A. 18A:7F-56, to all school districts for the exclusive purpose of implementing effective school safety measures.

Existing N.J.A.C. 6A:16-5.1 requires each school district to develop and implement comprehensive plans, procedures, and mechanisms that provide for safety and security in the school district's public elementary and secondary schools. The existing section also sets forth the required contents of the written plans and procedures, and requires the chief school administrator

to consult with law enforcement agencies, health and social services provider agencies, emergency management planners, and school and other community resources, as appropriate, in the development of the plans, procedures, and mechanisms. The section further requires the district board of education to disseminate the plan to employees. Pursuant to existing N.J.A.C. 6A:16-5.1, the district board of education also is required to develop and provide all district board of education employees with an in-service training program to enable employees to recognize and appropriately respond to safety and security concerns, including emergencies and crises, consistent with the district board of education's plans, procedures, and mechanisms.

The petitioners requested that the State Board and Commissioner adopt amendments at N.J.A.C. 6A:16-5.1 to require a school district to include in the school safety and security plan provisions governing the allowable and effective use of security aid in support of the plan. The petitioners also requested that the State Board and Commissioner adopt amendments to govern allowable and effective use of security aid and to ensure that such expenditures implement a school district's school safety plan to provide students with a safe and supportive learning environment.

The petitioners requested that N.J.A.C. 6A:16-5.1 be amended to prescribe the specific allowable uses for security aid based on the current research on effective staffing, programs, and other interventions. The petitioners also requested that N.J.A.C. 6A:16-5.1 be amended to prohibit school districts from using security aid on specified expenditures.

The petitioners further requested that N.J.A.C. 6A:16-5.1 be amended to require the following: the allocation of security aid by school districts to support implementation of their school safety plans; a collaborative decision-making process between school districts and families, students, educators, community partners, and other stakeholders to review school climate data and determine how security aid will be allocated to create a safe and supportive learning environment; the collection of data on the specific uses and expenditures of security aid

by the Department of Education (Department), on an annual basis, from school districts; and the Department's publication of the data and other relevant information collected on data districts' security aid uses and expenditures in a timely manner.

A notice acknowledging receipt of the petition was published in the June 20, 2022, New Jersey Register at 54 N.J.R. 1200(a).

The Department has deliberated on the petition and concluded that the petitioners' statement that State categorical security aid is provided, pursuant to the SFRA, to all school districts "for the exclusive purpose of implementing effective school safety measures" is incorrect. The Department's 2007 report [*A Formula for Success: All Children, All Communities*](#), which was the foundation of the SFRA, states that "categorical aid" describes how the aid category is calculated, not how the funds may be expended. As stated in the report, the Department's proposal included two types of aid: wealth-equalized and categorical. "Wealth-equalized aid is allocated according to each district's ability to raise enough local revenue to support their adequacy budget," according to page 19 of the report. "Categorical aid is allocated regardless of a district's ability to raise local revenue. Categorical amounts are typically determined by multiplying the cost factor for a particular category by the number of students that qualify for the aid."

There are numerous ways in which the Legislature could have expressed an intent that security categorical aid be used for only school safety measures, including the following two examples:

- First, the Legislature could have specified that the aid be recorded in a special revenue fund, which accounts for specific revenue sources that are legally restricted to expenditures for specified purposes. Preschool education aid, which is another category included in the SFRA, is an example of aid that must be recorded in a special revenue fund. N.J.S.A. 18A:7F-54.e states that "[a] district

shall appropriate preschool education aid in a special revenue fund for expenditure. In the event that any preschool education aid is not expended during the budget year, the aid may be carried forward in accordance with regulations adopted by the commissioner.” N.J.S.A. 18A:7F-56 does not contain similar language appropriating security categorical aid to a special revenue fund; the statute describes only how the aid is to be calculated.

- Alternatively, the Legislature could have included statutory language that governs how security categorical aid may be used, notwithstanding the fact that it is included in the general fund. For example, N.J.S.A. 18A:39-31.b stipulates that if a school district generates revenue by selling advertising space on the side of a school bus, “50% of any revenue generated by the sale shall be used by the board to offset the fuel costs of providing pupil transportation services, and the remaining 50% of the revenue shall be used to support any programs and services the board may deem appropriate.” N.J.S.A. 18A:7F-56 does not include language specifying that any portion of security categorical aid must be used for any particular purpose.

The petitioners’ recommendations would require financial reporting in a manner that diminishes school districts’ flexibility to make operational decisions based on their specific circumstances. Under the State’s uniform chart of accounts, as well as generally accepted accounting principles (GAAP), a school district’s general fund accounts for revenues and expenditures related to a school district’s normal operations. As such, security categorical aid, as well as most other State aid categories, are recorded in the general fund. Recording revenues in the general fund allows school districts to efficiently utilize revenue in a way that is appropriate to each school district’s needs, since specific revenue sources are not linked to specific expenditures. To achieve the petitioners’ objectives, security categorical aid would need to be reported in the

special revenue fund (as detailed above). Maintaining security categorical aid in the general fund allows districts to pursue the measures set forth in the petition without hindering school districts' ability to use available funds to address other specific needs for certain goods and services.

For the above-stated reasons, the petitioners' request is hereby denied.

A copy of this public notice is being mailed to the petitioners.