

Public Notice

Education

State Board of Education

Notice of Receipt of 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 request 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 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 specifically request that N.J.A.C. 6A:16-5.1 be amended to prescribe the allowable uses for security aid based on the current research on effective staffing, programs, and other interventions, including the following:

- The hiring or training of school counselors, school psychologists, nurses, social workers, community health workers, and/or trauma-informed personnel to intervene, address and support the social, emotional, mental, and physical health of students; de-escalate and interrupt potential disruptive behaviors and violence; and

reduce suspensions, exclusionary discipline, school-based arrests, and interactions with, and referrals to, law enforcement and the criminal justice system;

- The implementation of restorative justice practices and interventions, mediators, social and emotional learning programs, or other evidence-based services and strategies designed to improve school climate, and student and school connectedness, and to protect the health and well-being of staff, students, and their families; and/or
- The provision of training and professional development to teachers, teacher assistants, school and district administrators, counselors, specialized instructional support personnel, and other professional staff that:
 - Fosters safe, inclusive, and stable learning environments that support the social, emotional, mental, and physical health of students and prevent and mitigate the effects of trauma;
 - Improves school capacity to identify, refer, and provide services to students in need of support services;
 - Reduces the number of students with disabilities experiencing school discipline for their disability-related behavior through specific training on the identification, development, and implementation of behavior intervention plans; and
 - Reduces the number of Black, Latino, Native American, and LGBTQ+ students who are disciplined for minor, age-appropriate behaviors that should be addressed through evidence-based, trauma-informed services and support.

The petitioners also request that N.J.A.C. 6A:16-5.1 be amended to prohibit school districts from using security aid on the following expenditures:

- School resource officers (SROs) and other law enforcement personnel;
- The implementation or enforcement of zero-tolerance school discipline policies, including contracts or other agreements with law enforcement agencies that place and/or support the presence of law enforcement personnel in schools; and
- Arming teachers, principals, school leaders, or other school personnel.

The petitioners further request that N.J.A.C. 6A:16-5.1 be amended to require the following:

- The allocation 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.

The petitioners state that the State Board and Commissioner have not promulgated any rules establishing the allowable uses of security aid by school districts and, therefore, there presently are no criteria or standards to ensure security aid is utilized only for its express statutory purpose and is effective in providing a safe and supportive school learning environment for students. The petitioners also state that the State Board and Commissioner's failure to adopt

rules governing the allowable use of security aid has resulted in a lack of data or other available information on the specific staff, programs, and other expenditures utilizing security aid and whether the expenditures implement school districts' school safety plans, as required at N.J.A.C. 6A:16-5.1 and are effective in providing students a safe and supportive learning environment.

The petitioners state that the SFRA authorizes and requires the State Board and Commissioner promulgate the requested rules governing the allowable and effective use of security aid to effectuate the constitutional rights of students to a thorough and efficient education (N.J. Constitution art. 8, § IV, ¶ 1). The petitioners also state that the Legislature's incorporation of a category of aid in the SFRA designated solely for school safety is an essential component of an adequately funded thorough and efficient education for all students. The petitioners further state that rules governing the allowable and effective use of that aid are not only authorized, but compelled, to effectuate the constitutional right of New Jersey students to attend schools that provide a safe and supportive environment conducive to the achievement of state academic standards.

Referencing *Robinson v. Cahill* 69 N.J. 449, 461 (1976) (*Robinson V*), N.J.S.A. 18A:4-10 and 15, the petitioners also state that the State Board and Commissioner are authorized to promulgate the requested regulations by virtue of the broad supervisory authority over public education delegated by the Legislature.

The New Jersey Institute for Social Justice (Institute) indicates that the requested rules will ensure that youth in under-resourced and over-policed communities can receive critically needed mental health services, restorative justice programs, and social and emotional learning. The Institute also states that, for too long, New Jersey's urban school districts, reinforced by State Board rules, have securitized the educational spaces for students of color, resulting in stark

racial disparities in suspensions and arrests. The Institute further indicates that the requested amendments also would enable youth in lower income school districts across New Jersey to emerge from the pandemic with their mental health needs addressed, can learn to resolve any conflicts through restorative justice principles and develop into emotionally mature individuals.

The New Jersey Policy Perspective states the research and community experiences confirm that the requested amendments will create a more equitable and effective system of education.

The New Jersey Coalition for Bullying Awareness and Prevention (Coalition) states that increasing law enforcement presence in schools is not an effective primary approach to preventing and addressing bullying. The Coalition also indicates that the ideal approach to bullying in schools is to focus on prevention by ensuring that schools have a school culture and climate that is supportive, in which social-emotional learning and skills are emphasized throughout the curriculum and other school activities, and in which students most vulnerable to harsh treatment by peers are proactively and systematically identified, supported, and protected. The Coalition further states that bullying that may still occur is best addressed by restorative justice and supportive educational approaches.

The People's Organization for Progress states that the requested amendments will ensure that the necessary mental health and support staff be hired, that transparency and accountability be in place, and that evidence-based programs, including, but not limited to, emotional, social, and mental health programs and restorative justice be funded at the necessary levels for success.

The Social-Emotional Learning Alliance for New Jersey (SEL4NJ) states that increasing law enforcement presence in schools is not an effective approach to ensuring school safety. SEL4NJ also indicates that schools are safest when there is a focus on prevention of violence by ensuring that

schools have a school culture and climate that is positive and supportive, and that social-emotional learning and skills are emphasized throughout the curriculum and other school activities.

The Kennedy Forum states that the requested rules will ensure that schools are equipped to provide mental health services and supports, as well as safe and supportive learning environments, to guarantee better outcomes for all New Jersey students.

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioners, and file with the Office of Administrative Law, a notice of action on the petition.