

Notice of Adoption for N.J.A.C. 6A:7, Managing for Equality and Equity in Education

The following is the accessible version of the notice of adoption for N.J.A.C. 6A:7.

Education

State Board of Education

Managing for Equity in Education

Readoption with Amendments: N.J.A.C. 6A:7

Adopted Repeals: N.J.A.C. 6A:7-1.8 and 1.10

Proposed: April 3, 2023, at 55 N.J.R. 569(a).

Adopted: August 2, 2023, by the State Board of Education, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education, and Acting Secretary, State Board of Education.

Filed: August 7, 2023, as R.2023 d.102, **without change**.

Authority: N.J.S.A. 18A:4-15 and 18A:36-20.

Effective Dates: August 7, 2023, Readoption;
September 5, 2023, Amendments and Repeals.

Expiration Date: August 7, 2030.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received from members of the public and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Deborah Melicharek
2. Ray B.
3. Deborah Duncan
4. Maureen W. Deam
5. Nancymarie Jones
6. Nathaniel Williams
7. Steven Hatcher

8. Judith E. Love-Fischer
9. Elisabeth Yucis, Associate Director, Professional Development and Instructional Issues, New Jersey Education Association
10. Lela Charney
11. Marsha Love and Maarten Bosland, PhD.
12. Lori Delia
13. Linda Rockwell
14. Sharon Boone
15. Jaynie Apgar
16. Jeane Schmidt
17. Martha Galloway
18. Bill Knapp
19. Justin Schleider
20. Albert Aziz
21. Malak Malak
22. Maria Nina Scarpa, Retired teacher from Camden City
23. Matt Dragon
24. Lindsey F. Hintelmann, School media specialist
25. Katherine Brown, Teen Services Librarian, Piscataway Public Library
26. Alicia Scott, M.S. Ed.
27. Marcella Simadiris
28. Chairman Shaka Zulu, New Afrikan Black Panther Party
29. Coleen Caulfield
30. Dorothy Jones-Otto
31. Alfreda Coachman-Daniels

32. Laurence Q. Adams
33. Richard Shenowski
34. Amy Wagner
35. T.M.
36. Lawrence Hamm, Chairman of the People's Organization for Progress
37. Beth Thomas
38. Dionne McIver-Jenkins
39. Wade McIver
40. Tara McKean, Parent
41. Tricina Strong-Beebe
42. Claire Houghton-Kiel, School Librarian/Media Specialist, Passaic County
Technical Institute
43. Sharon Gail Baller, Library Media Specialist, Orchard Hills Elementary School
44. Mary Lewis
45. Michelle McGreivey
46. Jean Publice
47. Mary Desmond
48. Keilan Scott
49. Marcellus D. Smith, Jr.
50. Barbara Hill
51. Maria Boutros
52. John Row
53. Bonnie Rosa
54. Nicole Lois
55. Feiby

56. Concerned Mother
57. Love Peace
58. Nancy Leonardo
59. cingug
60. Joann Meyler
61. Ewa Wylaz
62. Robin
63. Edyta Martewicz
64. Susan Sawyer
65. Helena M. Coles
66. Emad
67. Anne Junda
68. Mary Nassim
69. ehab5421
70. Engy Mekaeel
71. Maria A. Buckley, Ed.D.
72. Deena Brattlie
73. Alfred Ebrahim
74. Ramez Moawad
75. Melanie Mostkiewicz
76. Rita Tota
77. Amira Tony
78. Nancy Georgy
79. Charlotte F. Kelly
80. Kathryn Perez

81. Maruma Maruma
82. Mariam Hany
83. George Wissa
84. Youstina Nekola
85. Mariam Anees
86. Mary Abdelmalak
87. Raous Sarofim
88. Janis Bordi
89. Nancy Rogers
90. Jeffrey Edel
91. Tara Edel, LSW, MSW
92. Heather C. Tuller
93. Mareham Magdy
94. Gwen Shenowski
95. Mariam Ghobriel
96. Marina Melek
97. Afafa Hanna⁸⁹
98. Tracey Flanagan
99. Dawn Flynn
100. Sanaa Eissa
101. Arminda Rubio-Pitio
102. Manal Iskander
103. Joana Kedis
104. Maria M. Adly
105. Moheb Louka

106. Sara Farag
107. sarafarag2001
108. Medhat Awad
109. Emad Dany
110. Hanan Ghaly
111. Dorothy Turse
112. Mina Kousa
113. Shiomara Sanchez
114. Carmen Lacivita
115. Robin Cusumano
116. Helena Coles
117. Lydia Samir
118. John Wassef
119. Shaunna OBrien
120. Ishac Polos
121. Nora Brower
122. Feby Farg
123. Stephanie Kaur
124. Cate Oakes
125. Lorena Barbos
126. Stacie Paterson
127. Kathleen Kirk, Team Protect Your Children
128. Demiana Asad
129. Maggie O'Mally
130. Janice Hand

131. Janet B. Nelson
132. Engy Mikhail
133. Samer Awad
134. Anna Wida
135. Teresa Silletti
136. Alissa and Tom Godwin
137. Mary and Scott Behm
138. Stacy Thomas
139. Joe Ferrandino
140. Guillermo Fernández
141. Deirdre Rajoppi
142. Ana Vazquez
143. Ruben A. Salido
144. Lidya Gowran
145. Jasmine Sproule
146. Linda J. DeBerardinis
147. Desirae Pesce
148. Joan Hillman
149. April Jaruszewski
150. Jeanette Chennells
151. John Halanick
152. Beverly Lawson
153. Carol Straub
154. Ray Bovino
155. Trista Kay

156. Ana Vazquez
157. Dana Yedwab
158. Samy Youssef
159. Joseph and Jasmine Sproule
160. T.J. Slavin
161. Elizabeth Slavin
162. Phil and Maria Coenraad
163. Mary Moyer Stubbs, Legislative Consultant, New Jersey Association of School Librarians (NJASL) on behalf of Ewa Dziedzic-Elliot, NJASL President
164. Bibiana Prada, Media specialist/librarian
165. Bonnie Rosa and Anne Junda
166. Jill Picklo
167. Ellen Beth Sona
168. Kelly Ann Arzberger
169. Kelly Liauw
170. Sherry Nardolillo
171. Jennifer A. Makar, Member, Roselle Park Board of Education
172. Kellie Hotz-Goodman
173. Irene Ramos
174. hcoles4963
175. Cynthia Bergamo
176. KathyMarie Denuel
177. Donna Lisa
178. Susan Fischer, Retired teacher
179. Camille Intelisano

180. Emad Boles
181. Angela Lockhart, R.N.
182. Rita Mills
183. Eileen M. Johnson
184. Josephine Arizmendi
185. Amy Minnich
186. Sal Runfola
187. Angelina Fridman
188. Fatima Tavares, DMD
189. Nicholas Russo
190. Wayne W. Wright
191. Thomas and Kathleen Mahala
192. Kalli Papas
193. William Gouda
194. Mary Lockshin
195. Koki Loka
196. Fadia Mansour
197. Hala Elfayez
198. Youstina Safen
199. Trevina Hanna
200. Mariana Metry
201. James G. Pearo III
202. Mariam Hassaballah
203. Remon Rezik
204. Youstina Girgis

205. Hanan Youssef
206. George M. Atallah
207. Teagia Maria
208. Manal Loukas
209. Mariam Girgis
210. Marian B. Ibrahim
211. Christina Garas
212. Mary Zaher
213. Margaret H.
214. Wafaa George
215. Michael Farid
216. Naeim Mehawed
217. Margaret Habib
218. Patricia A. Murphy
219. Kresteena Kresteena
220. Hala Toma
221. Jen Falkoff
222. Raous Sarofim
223. Fam Shehata
224. Mariam Abas
225. Demyana Mehanny
226. Nancy M.
227. Summer Kabourakis
228. Amal Herz
229. John Nicola

230. Eman Ayoub
231. Michael Roche
232. Lisa Santangelo
233. Anne Camera
234. Haidy Ghaly
235. Shenouda Toumas
236. JoAnne Lotorto
237. Edward Maenner
238. Suzanne Bocage
239. Colleen Doyle
240. Josephine Ruggiero
241. Michael Pierro
242. Veronica Abdo
243. Samir Abdo
244. Anna Marie Marzocca
245. John LoVerde
246. Valerie Khalil
247. Melisa Colette
248. Deborah Hartman
249. L. Smith
250. T. Brink
251. Cheryl Palew
252. Laura Mazza
253. Tiffany Anastasatos
254. Eugenia Franzo

255. Maria Akram Gawargi
256. Theresa Maurer
257. Glenn Shimomura
258. Meg Morton
259. Deborah Ford
260. Mary Miles
261. Robert Esser
262. Daba Flocco
263. Eric Flocco
264. Ana Samuel
265. Sanjeev Kulkarni
266. Sue and Lou Graglia
267. Betsy Kulkarni
268. Elizabeth M. Schneck
269. Carol Eng
270. Mary Ellen O'Boyle
271. Dorothy O'Reilly
272. Stacey Gordaychik
273. Molly Fisher, DPT
274. Rob Skead
275. Kerri Sirinides
276. Shannon Collier
277. Kris Pawelko
278. Susanne Lentini
279. James Garofalo

280. Jill Carbone
281. Nabil Bekheet
282. Montie Connelly
283. Maria Wanis
284. Stacy Campbell
285. Lauren Till
286. Maged F. Mikhail
287. Dr. Karen Garrison
288. Hanaa Sarofeem
289. Donna Weber
290. Rania Gerges
291. Dawn Large
292. Joy Catrini
293. Krystal Forbes
294. Nady Kamal
295. Diane Szuster
296. Michael Mina
297. Karen Soliman
298. Michael Barnett
299. David Bulka
300. Christine Henry
301. Guirguis Tadros
302. Tracy Spiaggia
303. Darlene Haars-Prokapus
304. Donna M. Hart

305. Leesa Niece
306. Andrew F. Lee
307. Tanya Williams Smith
308. Elle Wilson
309. Bradford P. Wilson
310. Christa Rabosky
311. Beth Macioci
312. Nancy Armaniouse
313. Neveen Ghali
314. Mary R. Walsh
315. John S. and Linda Thomas
316. Heather L Cordes
317. Julie Alessi
318. Stephanie Akselsen
319. Deborah Wellings
320. Ronald Hollis
321. Barbara Dahdah-Anderson
322. Meg Mullen
323. Avraham Sharaby
324. Victoria A. Jakelsky, State Director, Team Protect Your Children (PYC)
325. Iwan Juwana
326. Noosa Nashat
327. Terrence Brown
328. Marisol Acevedo
329. Joseph Sproule

330. Nermeen Ibrahim
331. Deborah Norcross
332. Carmela Spieler
333. Ria Harris
334. Debbie McCollum
335. Shirley Deleon
336. Naglaa Farag
337. Eleanor Meditz
338. Joli Toth
339. Kathy Stanzione
340. Sean M. Parkot
341. Sarah C. McClain
342. Susan Whitman
343. Toby Doe
344. Erika Downes
345. Jo Ann Schwarzbek
346. April Matera
347. Paul Lund, Teacher
348. Mona Kalliny
349. Nicole Ryan, Reading specialist/Wilson Certified teacher
350. Giovanna Cicerchia
351. Deborah Itnyre
352. Marcella Simadris on behalf of People's Organization for Progress
353. Doug Montesano
354. Chris Cannella, Educator

355. Shadura Lee on behalf of Salvation and Social Justice
356. Peter Rosario, President and CEO, La Casa de Don Pedro Inc.
357. Charles Payne, Joseph C. Cornwall Center for Metropolitan Studies
358. Dr. Larry Leverett, New Jersey Network of Superintendents
359. Valeria Posso, Latino Action Network Foundation
360. Vivian Fraser, Urban League of Essex County
361. Nina C. Peckman, Esq., Staff attorney, Advocates for Children for New Jersey
362. Barbara Eames, Co-Founder, Working Together for NJ
363. Dr. Leah Owens, Researcher, on behalf of Tom Puryear, NAACP, New Jersey Conference
364. Shawn Hyland, Director of Advocacy, New Jersey Family Policy Center
365. Yolanda Greene
366. Briana Mitchell
367. Vicki Rivano
368. Louis G. Buonomo
369. Maria Garcia
370. Jacqueline A Manolio
371. Ann Marie Grutta
372. Amanda Landelius
373. Leonard Risalato
374. Margaret Friia
375. Maja Bednarski
376. Dr. Jessica Leddy Melando
377. Linda DiSturco
378. Rev. Marcelle McGovern

379. Necia McQueen
380. Marie D'Urso
381. David Milkes
382. Michele Woodward Lawton
383. Sam Lamm
384. Nady Morgan
385. Eric
386. Joanne Gorelick
387. Michelle Kinsella
388. Danielle Clementson
389. Niraj Patel
390. Joanne Godlewsky
391. Teresa Tenreiro
392. Anne Reiser
393. Kathi Sottosanti
394. meanymom54
395. Leonard Risalvato
396. Sharon Coleman
397. Brandon E. Umba, Assemblyman, New Jersey State Legislature, Eighth Legislative District
398. Patricia L. Wenzel, MA. LDT/C
399. Mrs. Arias
400. Sandy Ostrander
401. Marc Aisen
402. Sam Stancheck

403. Rabbi Noson Shmuel Leiter, Executive director, Help Rescue Our Children
404. Hilary Jersey
405. James Pizzillo
406. Rachel Daly
407. Toni La Forge
408. Dawn Hudock
409. Linda Gallart
410. Sara Tadros
411. Patricia Carrera
412. Dahlia Salama
413. William Junda
414. Simon Maria Cindea
415. Cathy Wisham
416. Lisa Pesch
417. Cheryl Kelly
418. John Rovetto
419. Susan Rovetto
420. Lisa Pezzano Mickey, Esq., Pezzano Mickey Law
421. Adriel Bastos
422. Charles Kovacs
423. Angelina Moore-Johnson
424. Patricia Munier
425. Linda Schramm
426. Gerry Scharfenberger, Assemblyman, New Jersey State Legislature, 13th Legislative District
427. Erik Peterson, Assemblyman, New Jersey State Legislature, 23th Legislative District

428. Pat Cerr
429. Maryann Ruiz
430. Ehab Wasily
431. Pamela Zuchowski
432. Melaine Campbell
433. Rupert A. Hayles Jr.
434. Gregory Sawyer
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444. Melanie McNamara
445. Michael Mulieri
446. Jackie
447. Jeanine Fenlon
448. Shilamida Kupershteyn
449. Lean Counts
450. William DeMuth
451. Treza Accardi
452. Mary Wasily

453. Ted Geuther
454. Fifi Hillmy
455. Lorraine Hinger
456. Julie Macar
457. Sara Mekhail
458. Hala Gobrial
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461. Jazzmieka Wortham
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463. Naomi Simmons
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465. Walter Youngman
466. Brittany Mascia-Thorpe
467. Dorothy Kaack
468. Cathy Massaro
469. Katie Kline
470. Stephanie Nase
471. Karen Stack
472. Michael Dennison
473. Shirley Donnini
474. Jessica Coopersmith
475. Jason Hansman
476. Lilian Colpas
477. Karyn Layton

478. Sandra Felmly
479. Scott Jones
480. Ronald G. Hartman Jr.
481. Rose Barrett
482. Sonja Everswick
483. Jennifer Blake
484. The Cardenas Family
485. John Moro
486. Carissa Sambolec
487. Jeryl Maglio
488. Lisa Werdal
489. Evelyn Mazzei
490. Camille Kluge
491. Maria Quigley
492. Rena Shaab
493. Dan Brown
494. Joyce Serdinsky
495. Mary Pocsik
496. Judith G. Amorski
497. Laura Hebler
498. Dr. Spencer Click
499. Kathleen Falconio
500. William Falconio
501. Brigitte Formolo
502. Kristina Cagno

503. Concerned Parents of New Jersey
504. Stephanie Lomas Cruz
505. Christopher Korek
506. Rebecca Antonucci
507. Jocelyn Milone
508. Maria Steiger
509. Monique Cabrera
510. Adriana Rivera
511. Katie Doeler
512. Guilherme Medeiros
513. Lara Cruz
514. Roberto Valdes
515. Melissa Kampmeier
516. Hanah Cuttrell
517. Lloyd Gomes
518. Elizabeth Venezia
519. Sean MacLeary
520. Stephanie Edreff
521. Tammy Dascoli
522. Tom Martin
523. Brea Flannigan
524. Cindy Nelson
525. Nathan Wolf
526. Laura Berkeyheiser
527. Sarah Errico

528. Dustin and Brittany Reaves
529. Sadiqa Hawkins
530. Warren Scales
531. Savoia Buntin
532. Craig Pair
533. Gordon Gacek
534. Margaret Mary Brennan
535. Jamie DiFedele
536. David Diaz
537. Ricardo Ceballos
538. Cheryl Lemanski Farawell
539. Jenna Reimer
540. Lucy Pair
541. Candace Steiger
542. Yasmeen Fierros
543. Nika Stirling
544. Evelyn Kaveski
545. Alex Farrales
546. Janice Blewett
547. Elanna Cisternas
548. Susan Falconio
549. Shawn Forlenza
550. Bahareh Attun
551. William Troy
552. Hans Cisternas

553. Christian
554. Anastasia Mironycheva
555. Maria Zuffanti
556. Andrey Golushko
557. Christina Noroski
558. Peter and Tasha Peslak
559. Donald and Catherine Allarde
560. Marianne Dolan
561. Deena Santiago
562. Matthew Noroski
563. Akiko Roberts
564. Chris Mastalski
565. Michelle DeRonde
566. Miguelina Fernandez
567. Arasely Estrada
568. Erin Troy
569. Nina Edwards
570. May Fung
571. Alissa Giannone
572. Crystal Benesta
573. Valerie Frankie
574. Shawn Benesta
575. Roy Byers
576. Ann Marie R. Davis
577. Sharon Gacek

578. Alicia Guierro
579. Joseph Errico
580. Adele Marky
581. Aimee Martin
582. Alexis Langelotti
583. Alison Miller
584. Amanda Grove
585. Ambareen Naqvi
586. Amelia Ragusano
587. Amy Ipp
588. Amy Meier
589. Amy Pearlmutter
590. Ana West
591. Anita Mancini
592. Ann Cahill-Makowsky
593. Anna Ruff
594. Aparna Natarajan
595. Ashley Cieplicki
596. Ashley Kurasz
597. B. Collene Stout
598. Bailey Mariner
599. Barbara AKA Bobbie DeGuilo
600. Barbara Trought
601. Bernadette Gillick
602. Beth Abramson

603. Beth Lawrence
604. Bethany Diaz
605. Bharat Adarkar
606. Bianca Mayes
607. Brady Perdue
608. Braeden Perdue
609. Carl Darmanin
610. Carmen We
611. Carol Reed
612. Caroline Heinle
613. Cassandra Gilbert
614. Catherine Schussler
615. Cheryl Dzubak
616. Chris Prass
617. Christopher F. Vota
618. Cindy Alexander
619. Clare MacKenzie
620. Claudia Cortese
621. Cynthia Soete
622. Dana Fortino
623. Dani Serena-Clementz
624. Danielle Nugent
625. David Lavender
626. Deborah Woodbury
627. Denise Lytle

628. Denise Ortiz
629. Diana Braithwaite
630. Diana Kerievsky
631. Diane Vigar
632. Dina Willner
633. Edward Konikowski
634. Elise Phillips Margulis
635. Elizabeth Finnen
636. Emily Salmieri
637. Eric Whitman
638. Erica Johanson
639. Evelyn Kurtzberg
640. Fern Wolkin
641. Frances MacCarrigan
642. Francine Joy Allen
643. Gabriela Almeida-Altamirano
644. Gale Sasson
645. Harriet Snyder
646. Harry Stein
647. Heather Doerr
648. Heather Palmeri
649. Heidi Dunietz
650. Hellen Greenblatt
651. Herb Conway
652. Ian Borghard

653. Ira Mendelsberg
654. Irwin Lentchner
655. Jacquelyn Dal Bon
656. James C Boyle
657. James or Mary Reavey
658. Jana Phelps
659. Jane Gomez
660. Jane Selzer
661. Jane Susswein
662. Janice Dlugosz
663. Janna Bogan
664. Jarrett Cloud
665. Jayme McGauley
666. Jen Almeida
667. Jennifer Grissom
668. Jennifer Philburn
669. Jennifer Ryan
670. Jennifer Snively
671. Jessica Hiller
672. Jessica Ramirez
673. Jill Seiden
674. Jo-Ann Abbruzzese
675. Joanna Bagatta
676. Jodi Fekete
677. Joyce Frohn

678. Julie Suarez
679. Justine Catli
680. JW Routhenstein
681. Jyh Lay
682. Karen Poling
683. Katherine Garzon
684. Kathleen Ogden
685. Kathryn Counsell
686. Kathryn Thacker
687. Kathy Flocco-McMaster
688. Kathy Hart
689. Kathy Maher
690. Kelly Campbell
691. Kelly Lucadamo
692. Kevin Escobar
693. Kevin Robbins
694. Kimberly Salma
695. Larisa Mendez Downes
696. Lascinda Goetschius
697. Laura Weinberg
698. Laurel Kornfeld
699. Lauren Piscitelli
700. Laurie Schuftan
701. Lee Dlugin
702. Lia Kratzer

703. Linda K Hardy Hardy
704. Linda McKillip
705. Linda Williams
706. Lisa Butler
707. Lisa Smith
708. Lisa Tafro
709. Lorene Wilkerson
710. Lou Marinucci
711. Louise Berkman
712. Lynne Fritz
713. Mackenzie Murphy
714. Margaret Emery
715. Margaret Peist
716. Marge Ferrance
717. Marilyn Cohen
718. Marion Steininger
719. Marisa Duplisea
720. Mary Jane Viscomi
721. Mary Reavey
722. Maureen Deam
723. Maureen Sprong
724. Melissa Logan
725. Michael Cloud
726. Michael Z. Murphy
727. Michelle Boylan

728. Miranda Esposito
729. Moira Goldberg
730. Molly Crosby
731. Mon Mor
732. Monica Carsky Kennedy
733. Monica Lemperle
734. Msrk Waltzer
735. Nancy Wilson
736. Noa Marcus
737. Olivia Borghard
738. Parth Joshi
739. Patrick Balin
740. Paula Bushkoff
741. Paula Selkow
742. Peg Peist
743. Phyllis Sank
744. Rachel Donohue
745. Raymond Intemann
746. Rebecca Ames
747. Remi Lorenzo
748. Renae Gallone Borgstrom
749. Richard Miller
750. Richard Rosenberg
751. Robert MacFarlane
752. Roberta Sparkman

753. Robyn Flipse
754. Roxane Yonan
755. Ryan Kuczynski
756. Sabrina LaRosa
757. Sally Cogan
758. Sandra Moreno Casas
759. Sarah Dwight
760. Sarah Koziatek
761. Sarah Poole
762. Sean Hojnacki
763. Sharon Falkin
764. Sharon Gray
765. Shawanna Dilworth
766. Sheila Munson
767. Steph May
768. Stephen Halpern
769. Susan Dewey
770. Susan Eckstein
771. Susan Esserman
772. Susan Gaits
773. Susan Hanlon
774. Susan Kvarantan
775. Susan Mikaitis
776. Susan Nierenberg
777. Susana Tapia

778. Sylvia Pfeffer
779. Sylvia S.
780. Taylor No
781. Trevanne Foxton
782. Trevanne Trevanne
783. Trish Lotzof
784. Victoria Mack
785. Virginia Rietz
786. Yekaterina Totskaya
787. Yvonne Cohn
788. Zakiyyah Mason
789. Carol Gallentine
790. Gabrielle Ulubay
791. Altereque F. Jones
792. Nancy Cocconi
793. Margaret Dela Cruz
794. Richard Dela Cruz
795. Claudia and Douglas Reid
796. Annette Zelinsky
797. Kate Flugrath
798. Anthony Fuscaldo
799. Donna Fuscaldo
800. Joy Soto
801. Irene Lieberman
802. Samir Attun

803. Maria Argen
804. Sandra Moskovitz
805. Donna Weldon
806. Katie Burek
807. Christine Ruhl
808. Nancie Shauger
809. Matthew Romolo
810. Daniel and Tara Lorenz
811. Jo Ann C. Puleo
812. Kris Tompkins
813. Ted Gacek
814. Alexander Marcus
815. Amanda Marcero
816. Carla Leady
817. Catherine Diana
818. Cheryl And Dave Palew
819. Christie Lacontejones
820. Easter G. Frazier
821. Eileen Johnson
822. Elaine Santo
823. Eunice Aridi
824. Franklin Park
825. George Tadros
826. Jan Zaloum
827. Jill Korek

- 828. Judith H. Devone
- 829. Margaret O'Connor
- 830. Marina Makram
- 831. Mohammed Batmanghelich
- 832. Nicole Gallo
- 833. Ruth Brudnicki
- 834. Sharon A. Sutton
- 835. Veronica Lollgen
- 836. Diane Cuesta
- 837. Kristie O'Keefe
- 838. Lori Trabokia
- 839. Steven Capan
- 840. Cindy Carbajal
- 841. Edward Durr, Senator, New Jersey State Legislature, Third Legislative District
- 842. Silvia Ferreira
- 843. Christina Petersen
- 844. Charles A. Ferrer
- 845. Donna Marie Suszynski
- 846. Honeyrose101
- 847. Ross Dickerson
- 848. Alana Dickerson
- 849. Ann Evans
- 850. Kate Hannett
- 851. Joyce Riccio-Sauer
- 852. Maryalice D. Pane

853. Leah Z. Owens, Ph.D.

854. Beth Raff, President Elect, and Jill Mills, Past President, New Jersey Association of School Librarians

855. Eveleth Roderer, Member Team PYC

856. Tyrone Lockett

1. Comment: The commenter cited many references to New Jersey's history of providing equitable education to students. The commenter asked how the Department's proposal reflects and honors the State's historical commitment to equity in education. (27)

Response: N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, reflects and honors New Jersey's historical commitment to equity. The chapter's purpose 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., are provided equitable access to educational programs and services by district boards of education. The chapter, as proposed for readoption with amendments and repeals, also implements the protections for students against discrimination pursuant to Art. I, Par. 5 of the New Jersey State Constitution; the New Jersey Laws Against Discrimination (NJLAD), 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.).

2. Comment: The commenter expressed support for the proposed amendments at N.J.A.C. 6A:7. The commenter stated that the regulations define several important terms and processes intended to eliminate inequitable practices. The commenter also stated that New Jersey's public schools provide all students with great educational opportunities.

The commenter recognized the progress that has been made by the Department through the proposed amendments to the chapter. (9)

3. Comment: The commenter supported the rules proposed for readoption with amendments and repeals at N.J.A.C. 6A:7. The commenter stated that the commenter has experienced the difficulties associated with equity for students and school staff. The commenter thanked the Department for presenting the need for equity in schools. The commenter requested that the Department move forward with the proposed readoption. (22)
4. Comment: The commenter supported the definition of “equity,” as proposed for amendment, at N.J.A.C. 6A:7-1.3. The commenter stated that the amended definition is stronger than the existing or prior definitions, speaks to the elimination of disparate education outcomes, and ensures opportunities for all students. The commenter also stated that all other proposed amendments and repeals at N.J.A.C. 6A:7 should flow from the amended definition of “equity.” (853)
5. Comment: The commenter stated that the chapter, as proposed for readoption with amendments and repeals, is designed to provide equal access to educational programs and services provided by district boards of education. (363)
6. Comment: The commenter expressed continued support of the following:
 - Investing in high-quality early childhood education;
 - Guaranteeing that all students have access to vigorous coursework;
 - Providing very strong preparatory components;
 - Providing teachers with the needed development necessary to provide instruction to students;
 - Guaranteeing that all students have access to the resources and opportunities needed to achieve success; and

- Addressing all components necessary to address Statewide socio-economic concerns. (363)

Response to Comments 2 through 6: The Department appreciates the support.

7. Comment: The commenters objected to the rules proposed for readoption with amendments and repeals at N.J.A.C. 6A:7. (2, 19, 26, 28, 31, 32, 33, 36, 38, 39, 40, 46, 48, 53, 54, 55, 64, 67, 68, 70, 71, 78, 79, 82, 88, 89, 94, 98, 101, 111, 116, 119, 122, 127 through 161, 168, 171, 179, 187, 190, 194, 195, 198, 199, 220, 227, 232, 238, 243, 245, 254, 269, 271, 273, 275, 279, 286, 290, 291, 293, 299, 301, 309, 314, 319, 322, 323, 324, 325, 340, 351, 353, 356, 357, 359, 360. 362, 366 through 373, 391, 395, 396, 398, 401, 402, 403, 404, 407, 408, 409, 411, 412, 413, 418, 419, 421, 422, 424, 428 through 462, 464, 465, 467, 478, 479, 480, 481, 488, 494, 495, 496, 503 through 543, 545, 546, 547, 549 through 553, 555 through 564, 566, 567, 568, 569, 572, 573, 574, 576, 577, 579, 793, 794, 797, 847, 814 through 835, 848, 850, and 855)

Response: The Department acknowledges the commenters' objection to the rules readopted with amendments and repeals at N.J.A.C. 6A:7.

8. Comment: The commenters stated that the Department does not have the legal authority to make the proposed amendments at N.J.A.C. 6A:7. (33, 40, 46, 53, 55, 64, 67, 68, 70, 71, 72, 76, 77, 78, 82, 84, 88, 89, 92, 94, 97, 98, 100, 101, 103, 105, 108, 111, 112, 116, 119, 127 through 155, 157, 158, 159, 165 through 217, 220, 224 through 231, 233, 234, 235, 236, 238, 245, 251, 254, 267, 268, 271, 273, 281, 283, 286, 290, 291, 293, 294, 299, 300, 301, 306, 309, 312, 318, 319, 322 through 339, 341 through 346, 351, 353, 362, 366 through 373, 376, 385 through 396, 398, 399, 400, 401, 404, 407, 408, 409, 411, 412, 413, 418, 419, 421, 423, 424, 425, 429 through 459, 466, 469, 470, 471, 473 through 480, 484, 485, 488, 492, 493, 494, 496, 497, 498, 499, 501, 503 through 528, 530 through 543,

545 through 553, 555 through 564, 566 through 577, 579, 793, 794, 795, 797, 806, 807, 811, 841, 842, 843, 845, and 848)

9. Comment: The commenter objected to N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, and requested that the Department repeal it. (405, 165, and 401)
10. Comment: The commenter requested that the State Board vote against the amendment and readoption of N.J.A.C. 6A:7 or delete the chapter. (480)

Response to Comments 8, 9, and 10: The Department disagrees. The Department has an obligation to ensure that students are not discriminated against, pursuant to Art. I, Par. 5 of the New Jersey State Constitution; the NJLAD, 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.). The Department also has an obligation to ensure that students are not excluded from public education due to membership in any of the protected categories set forth at N.J.S.A. 18A:38-5.1. To achieve this, N.J.A.C. 6A:7 must be in place and school districts must implement the chapter's requirements.

11. Comment: The commenter stated that the proposal level comment and response did not accurately represent the commenter's previous testimony. The commenter provided examples the commenter contended were not accurate summaries. Specifically, the commenter asked why references within the commenter's written testimony were not included in the comment. (27)

Response: The Department disagrees. The commenter's testimony was summarized in 11 comments published in the proposal level comment and response form. The summarized comments stated that the commenter provided references or citations, where appropriate.

12. Comment: The commenter stated that the responses in the proposal level comment and response form did not address the commenter’s comments in a meaningful way. The commenter questioned whether the Department's lack of response was intentional. (27)
Response: The Department disagrees as it responds to each comment in a substantive and appropriate way, pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.
13. Comment: The commenter stated that the commenter’s previous testimony regarding N.J.A.C. 6A:7 cited U.S. Department of Education (USED) information that disputed State Board Member Aponte’s expressed concern regarding confusion at the national level around “gaps.” The commenter also stated that the USED citations previously provided by the commenter directly dispute the Department’s claim that best practices and equity experts were consulted when discussing the proposed amendments. The commenter asked whether the USED is using an asset-based approach when it references equity and whether there would be confusion if the Department referred to the gap in relation to opportunity. The commenter also asked the Department to cite its references, if different from the commenter’s sources. (27)
Response: The Department disagrees. The commenter provided USED citations that support the proposed amendments at N.J.A.C. 6A:7 related to the use of asset-based language.
14. Comment: The commenter stated that many parents, grandparents, citizens, and leaders opposed N.J.A.C. 6A:7. The commenter also stated that these individuals are the moral consciousness of education. The commenter further stated that the terms “equity” and “inclusion” will not actually change the world for the better, but would instead create more divisiveness, polarization, mental health problems, and physical issues, and will lead to multiple generations of children being under-educated and unable to support themselves. The commenter requested that the Department and the State Board contemplate these issues when considering re-adoption of N.J.A.C. 6A:7 with amendments. (400)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, will 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., are provided equal access to educational activities and programs by district boards of education.

15. Comment: The commenter stated that the proposed amendments at N.J.A.C. 6A:7 are causing a great divide, harming the LGBTQIA+ community, and causing more hate. (845)

Response: The Department disagrees. The chapter's purpose 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., are provided equal access to educational programs and services by district boards of education. The chapter, as proposed for readoption with amendments, also implements the protections for students against discrimination pursuant to Art. I, Par. 5 of the New Jersey State Constitution; the NJLAD (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 IDEA (20 U.S.C. §§ 1400 et seq.).

16. Comment: The commenter agreed with the comments submitted by other members of Team PYC and others in opposition to the readoption of N.J.A.C. 6A:7. The commenter quoted C.S. Lewis's *God in the Dock: Essays on Theology (Making of Modern Theology)* that "a tyranny sincerely exercised for the good of its victims may be the most oppressive." The commenter also stated that the commenters of good conscious are not going to be heard or acted on, but that the commenter was hopeful because other citizens and people of faith were present and providing similar testimony. The commenter referenced the Bill of Rights as support for the commenter's objection. The commenter

stated that the Department's proposed amendments are anti-people of faith, anti-science, and anti-biology. The commenter insisted that religious values be honored. The commenter stated that the Department should not support transgender people and it is inappropriate to show that the LGBTQIA+ lifestyle is normal. The commenter stated that the Department cannot run away from the truth. (855)

Response: The Department disagrees. Nothing in the proposed amendments is contrary to the rights and privileges set forth in the New Jersey State Constitution as it pertains to religious liberties as set forth at Art. I, Par. 1, 3, and 4. The Department recognizes the rights of all of its students, including its transgendered students.

17. Comment: The commenters stated that, through N.J.A.C. 6A:7 as proposed for readoption with amendments and repeals, the Department is denying that there are only two genders, wants to force all students to learn at the same rate, and is prohibiting gifted and advanced students from excelling through the pursuit of equity. (33, 64, 71, 78, 88, 89, 94, 98, 111, 116, 119, 122, 127, 150, 154, 159, 168, 194, 227, 243, 271, 273, 275, 319, 324, 325, 401, 419, 434, 439, 453, 563, and 814 through 835)

Response: The Department disagrees. Gender identity and gender are more complicated than the commenters suggest and there are individuals who fall outside of the traditional gender roles and gender identities, including transgender individuals and individuals who identify as non-binary. Nothing at N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, forces all students to learn at the same rate or prohibits gifted and advanced students from achieving academic success.

18. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7 on behalf of the commenters' constituents. The commenters expressed concern regarding the wholesale changes in the readoption of N.J.A.C. 6A:7. The commenters stated that decisions that affect every school district in the State and require school districts to rethink their

curricula need to be discussed by the representatives voted into office. The commenters also stated that, if the State is going to impose widescale or contentious revisions, the revisions should be made through the legislative process. The commenters cited the 2019 law mandating LGBTQ education (N.J.S.A. 18A:35-4.35) as precedent for this position. The commenters requested that the State Board remove the readoption of N.J.A.C. 6A:7 from its future agendas and, instead, advocate for it to be presented as legislation. (397, 426, and 427)

Response: The Department disagrees. The current rulemaking will not create a new chapter of the New Jersey Administrative Code. N.J.A.C. 6A:7 was first adopted as new rules 20 years ago (effective June 2, 2003) and readopted in 2008 and 2015. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, also does not constitute a wholesale change to Title 6A of the New Jersey Administrative Code governing education. Further, nothing at N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, requires school districts to reconsider or rethink their curricula.

The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals, at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, rulemaking, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, State Board of Education Rulemaking Process, the Administrative Procedure Act at N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30, Rules for Agency Rulemaking.

19. Comment: The commenter stated that the scope of the proposed amendments is beyond the State Board's authority. The commenter also stated that amendments of this scope can

only be produced through the legislative process. The commenter further stated that the proposed amendments will produce legal challenges. (340)

20. Comment: The commenters stated that New Jersey has three co-equal branches of government – legislative, executive, and judicial. The commenters also stated that the principal function of the legislative branch is to enact laws and that the Department is attempting to enact law with N.J.A.C. 6A:7, without authority. The commenters also stated that if passed, the proposed amendments will prohibit the free exercise of religious liberty of students, teachers, and public-school staff and eliminate the public’s First Amendment Rights. (33, 64, 71, 78, 88, 89, 94, 98, 111, 116, 119, 122, 127, 150, 154, 159, 168, 194, 227, 243, 271, 273, 275, 319, 324, 325, 401, 419, 434, 439, 453, 563, 814 through 835, and 850)

21. Comment: The commenters stated that the readoption with amendments at N.J.A.C. 6A:7 is not an amendment but a complete replacement. The commenters requested that N.J.A.C. 6A:7 be eliminated in its entirety and the Department allow teachers to teach facts and allow children to have their childhood. (55, 67, 88, 94, 98, 101, 116, 122, 127, 130, 133, 150, 154, 165, 168, 178, 181, 187, 194, 251, 271, 275, 323, 324, 411, 412 through 417, 421, 423, 425, and 850)

Response to Comments 19, 20, and 21: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board’s rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the

discussion, proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

22. Comment: The commenter stated that the wording of the proposed rulemaking sounds fair, but it is far from the truth and the commenter is voting no. (156)

Response: The Department disagrees. The Department has an obligation to ensure that students are not discriminated against, pursuant to the NJLAD and N.J.S.A. 18A:36-20, and that students are not excluded from public education due to membership in any of the protected categories set forth at N.J.S.A. 18A:38-5.1. To achieve this, N.J.A.C. 6A:7 must be in place and school districts must implement the chapter's requirements.

23. Comment: The commenter stated that seemingly small vocabulary changes at N.J.A.C. 6A:7 will have significant and wide-ranging effects impacting curriculum, policy, activities, and administration. The commenter stated that the negative consequences resulting from the proposed amendments include erasing biological sex, stripping of parental rights, and silencing religious liberty. The commenter further stated that gender-specific sports will be open to all students regardless of biology and may physically and psychologically endanger girls. The commenter also stated that equity will be prioritized over education. The commenter additionally stated that there would be administrative consequences, such that private schools and charter schools would be required to comply with the amendments, that school districts will be required to hire an affirmative action officer and create a comprehensive equity plan (CEP), and school districts not implementing the CEP within the time period required would be subject to sanctions including the withholding of State and Federal aid. (495)

Response: Nothing in the proposed amendments at N.J.A.C. 6A:7 establishes a religion or prohibits the free exercise of religion. Additionally, nothing in the proposed amendments is contrary to the rights and privileges set forth in the New Jersey State

Constitution. N.J.A.C. 6A:7 is applicable to school districts, charters schools, and renaissance school projects as cited in the chapter's scope. Charter schools are public schools in the State and, therefore, must comply with this chapter.

Further, as proposed for amendment, N.J.A.C. 6A:7-1.7(d)2 will permit a school district 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. Also, NJLAD prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

24. Comment: The commenter stated that public schools need to take a more neutral stance. The commenter also stated that the State is trampling the rights of the majority to magnify the minority and that there are much better solutions. The commenter further stated that history has many examples of how new trends and policies of the day are later proven to be harmful. The commenter suggested that the Department listen to others who have different perspectives. (154)

Response: The Department disagrees. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, and immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

25. Comment: The commenter stated that the State Board does not have any connection to what New Jersey parents want regarding the education of children. The commenter also stated that the New Jersey government is not acting for the people and by the people of the State. The commenter further stated that the proposed readoption with amendments and repeals at N.J.A.C. 6A:7 is educational tyranny and not transparent, and that very few parents are in support of the proposed amendments, leaving many parents outraged. (46)
- Response: The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, notice of proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30. Stakeholders, including parents of New Jersey, have had the opportunity to comment publicly and participate in the rulemaking process for the proposed readoption with amendments and repeals at N.J.A.C. 6A:7.
26. Comment: The commenter requested that the State Board not adopt the proposed amendments related to gender expression and identity and that "equality" not be replaced with "equity." The commenter also requested that public schools cease teaching classes concerning health and, at a minimum, cease teaching anything related to sex, sexuality, or male and female biology because it should be done by parents. The commenter stated that public schools have been unable to teach this subject matter in a factual and unbiased manner. The commenter suggested that health class should be an elective or there should be home-school-based health assignments. (843)

Response: The Department disagrees with the commenter's request regarding gender identity and expression because it is a protected class pursuant to the NJLAD. The Department proposes to repeal "equality" throughout the chapter because "equity," as proposed for amendment, better aligns with current terminology and practices in education.

The proposed amendments at N.J.A.C. 6A:7, including the repeal of "equality" throughout the chapter and the proposed amendments to the definition of "equity," are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

The commenter's requests regarding curriculum, including health class and lessons concerning human sexuality, are outside of the scope of this rulemaking.

27. Comment: The commenter stated that equity amounts to dumbing down and lowering standards. The commenter also stated that educators are catering to student's feelings rather than focusing on leading them toward excellence in academics. The commenter further stated that efforts to be fair to all discriminates against others, increases student distrust, and is not fair to any student. The commenter further stated that very few members of the public are aware of the proposed amendments at N.J.A.C. 6A:7 and, if they were aware, they would disagree with the proposed amendments and would not want their children indoctrinated into LGBTQIA+ philosophy and lifestyle. The commenter

also stated that the proposed amendments are likely being developed by LGBTQIA+ activists attempting to indoctrinate students with their agenda and are not the product of research and stakeholder feedback. (154)

Response: The Department disagrees with the commenter's generalizations regarding equity and discrimination. Nothing at N.J.A.C. 6A:7 discriminates against any member of the protected classes or indoctrinates students. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, and immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, notice of proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

28. Comment: The commenters stated that the amendments at N.J.A.C. 6A:7 are designed to force one ideology into every single aspect of New Jersey's public school system, as well as every sports program and outside organization that meet in school district facilities. The commenters also stated that the proposed amendments at N.J.A.C. 6A:7 mandate that

everyone succumb to a false doctrine and dogma that glorifies the LGBTQ lifestyle and teach students that people are less or greater than based upon the color of their skin or sexual identity. The commenters further stated that N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is full of unreal, false, and harmful propaganda. The commenters stated that the amendments to N.J.A.C. 6A:7 are not education, but indoctrination. The commenters requested that the Department stop trying to force a twisted agenda on children. (33, 64, 71, 78, 88, 89, 94, 98, 111, 116, 119, 122, 127, 150, 154, 159, 168, 194, 227, 243, 271, 273, 275, 319, 324, 325, 401, 419, 434, 439, 453, 563, and 814 through 835)

Response: The Department disagrees. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. Nothing within the proposed amendments to N.J.A.C. 6A:7 forces an ideology. Recognizing and respecting the rights of and protections afforded to members of the LGBTQIA+ community is required by the Department's obligations and the authority granted to it by the New Jersey Legislature, which is required by Article VIII, Section. IV, paragraph 1 of the New Jersey Constitution to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children between the ages of five and 18 years. Focusing on equity does not force an agenda on children. All children are entitled to a public education, including members of the LGBTQIA+ community.

29. Comment: The commenter stated that N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is an overreach of the government on parental rights and religious liberties and is very harmful for female students and a direct assault on Christian families. (40)

Response: The Department disagrees. Nothing in the proposed amendments at N.J.A.C. 6A:7 establishes a religion or prohibits the free exercise of religion. The proposed amendments at N.J.A.C. 6A:7 ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equitable access to educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

30. Comment: The commenters stated that the overreach by the Department is clear and that the ramifications will be overwhelming if N.J.A.C. 6A:7 is adopted. The commenters also cited N.J.A.C. 6A:7-1.1(b) and 1.4(d), as proposed for amendment, as areas of concern but did not provide any explanation or rationale. The commenters stated that N.J.A.C. 6A:7-1.8(a), as proposed for amendment, and the inclusion of recreational and organizing groups are unacceptable. The commenters stated that N.J.A.C. 6A:7 does not represent guidance or a policy, but that the Department would have complete control and oversight over all local educational agencies (LEAs), thereby taking away decision making from the district boards of education, parents, and taxpayers. The commenters cited N.J.A.C. 6A:7-1.8(e), as proposed for amendment, as an example. The commenters stated that the proposed amendments would negatively affect parental rights. (33, 64, 68, 70, 82, 98, 127, 150, 168, 179, 187, 194, 198, 199, 220, 271, 273, 286, 290, 301, 324, 362, 391, 401, 429 through 447, 459, 479, 480, and 494)

Response: The Department disagrees. Nothing at N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, takes away control from LEAs. The Department has an obligation to ensure that students are not discriminated against, pursuant to the NJLAD and N.J.S.A. 18A:36-20, and that students are not excluded from public education

due to membership in any of the protected categories set forth at N.J.S.A. 18A:38-5.1. To achieve this, N.J.A.C. 6A:7 must be in place and school districts must implement the chapter's requirements. Nothing in the proposed amendments at N.J.A.C. 6A:7 strips parental rights or is contrary to the rights and privileges set forth in the New Jersey State Constitution as it pertains to liberties set forth at Art. I, Par. 1, 3, and 4.

31. Comment: The commenters stated that the overreach by the Department is clear and that the ramifications will be overwhelming if N.J.A.C. 6A:7 is adopted. The commenters cited N.J.A.C. 6A:7-1.4(d), as proposed for amendment, but did not provide an explanation or rationale. The commenters also cited recodified N.J.A.C. 6A:7-1.8(e), as proposed for amendment, as support for their position. (53, 55, 67, 78, 88, 101, 116, 119, 151, 165, 171, 254, 293, 309, 412, 413, and 448 through 458)

Response: Please see the Response to Comment 19.

32. Comment: The commenter stated that students should be taught academic subjects and not changing terms and definitions to accommodate a liberal political agenda that takes away religious and parental liberties and harms children. (402)

Response: The Department disagrees. The chapter's purpose 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., 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.

Regarding the commenter's statement that the proposed amendments at N.J.A.C. 6A:7 take away religious liberty, the Department disagrees. Nothing in the proposed

amendments at N.J.A.C. 6A:7 establishes a religion or prohibits the free exercise of religion. Additionally, nothing in the proposed amendments is contrary to the rights and privileges set forth in the New Jersey State Constitution.

33. Comment: The commenter indicated opposition toward anyone who supports the proposed re adoption with amendments at N.J.A.C. 6A:7. The commenter stated that there will then be a push to ban public education if N.J.A.C. 6A:7 is readopted. (460)

Response: The Department disagrees. N.J.A.C. 6A:7 supports public education by ensuring that students are not discriminated against, pursuant to the NJLAD and N.J.S.A. 18A:36-20, and that students are not excluded from public education due to membership in any of the protected categories set forth at N.J.S.A. 18A:38-5.1.

34. Comment: The commenter stated that the proposed amendments conflict with Governor Murphy's public position on the NJSLS and that the NJSLS were meant as a guideline for school districts to implement the NJSLS-CHPE adopted in 2020. The commenter indicated that the Governor stated that school districts have the authority to modify curriculum as they deem appropriate and necessary to meet the needs of their students. The commenter requested that the Department honor the commitment to allow school districts to self-govern. The commenter also requested that the Department refocus New Jersey resources on other challenges, including addressing the low proficiency rates in core academic subjects of New Jersey students in urban school districts, understanding and countering the reason for bullying in schools, addressing the mental health needs of teenagers in a timely manner, and reversing cuts to stabilization aid. (157)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 do not usurp local authority or control over curriculum and content so long as the curriculum and materials are consistent with the NJSLS-CHPE. The NJSLS-CHPE is designed to address the needs of each student to gain knowledge and skills in caring for themselves,

interacting effectively, respectfully, and safely with others, and analyzing the impact of health choices.

The commenter's requests regarding the refocusing of resources is outside of the scope of this rulemaking.

35. Comment: The commenter stated that, although the Department might think it is noble to be inclusive of a protected minority, the Department is discriminating against the majority and leaving it unprotected. The commenter also stated that the "entire way out of bounds pornographic sex curriculum" is a disgrace and has no place in public schools. The commenter suggested that the State Board resist the Governor.

The commenter stated that it is appalling how New Jersey local governments and the State Board so often sneak through bills with the least amount of public accountability. The commenter also stated that the government in this country is out of control. The commenter further stated that America became great because of the Judeo-Christian ethics used in its founding. (2)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, will promote equity for students. The State Board considers each rulemaking pursuant to the multi-step process set forth at N.J.A.C. 6A:6, which includes multiple opportunities for public presentations of rulemaking and public comments. The process also incorporates the Administrative Procedure Act's requirements. The remaining comments are outside the scope of this rulemaking.

36. Comment: The commenters stated that N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is a complete replacement and not only amendments. The commenters also stated that the Department should focus on fundamental education for students and the learning loss due to lack of in-person education during the COVID-19 pandemic instead of pushing ideology on children. The commenters further stated that

pushing beliefs on students instead of focusing on reading, writing, and arithmetic does not belong in the public school system. The commenters requested that N.J.A.C. 6A:7 be removed from the State Board's agenda and that the Department listen to families who are expressing their displeasure. (841 and 842)

Response: The Department disagrees that N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is a complete replacement as the amendments are changes to existing rules. Nothing at N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, forces an ideology or belief on children. The chapter's purpose 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., are provided equal access to educational programs and services by district boards of education. The chapter, as proposed for readoption with amendments and repeals, also implements the protections for students against discrimination pursuant to Art. I, Par. 5 of the New Jersey State Constitution; the NJLAD (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 IDEA (20 U.S.C. §§ 1400 et seq.).

The Department agrees that addressing the learning loss of students after the COVID-19 pandemic is of paramount importance. The Department is engaged in a number of strategies to support school districts with addressing learning loss due to the COVID-19 pandemic, including the development of resources and opportunities for community members to be involved through the [New Jersey Partnership for Student Success](#), which provides grant opportunities to school districts to enhance learning acceleration, and through support from the county offices of education. The proposed

amendments throughout N.J.A.C. 6A:7 support addressing learning loss by ensuring that resources and opportunities are equitably distributed.

37. Comment: The commenter stated that New Jersey schools are failing and the ones that are suffering are the children. The commenter questioned what, if any, educational value the proposed amendments at N.J.A.C. 6A:7 provide to children and how much it will cost taxpayers.

The commenter also stated that the focus should be on assisting students due to learning loss which occurred as a result of the COVID-19 pandemic. The commenter asked that, as it relates to diversity and inclusion, the Department consider all groups, including Christians, Jews, Muslims, Hindus, and other religious groups, and those who believe in the order of the natural world and are being excluded. The commenter stated that the focus should be on improving the students' skill sets in mathematics, science, reading, and writing. The commenter also stated that politics of this kind does not belong in schools and asked the Department and the State Board to stop categorizing children and allow them to love learning again. The commenter asserted that the proposed amendments at N.J.A.C. 6A:7 do not promote diversity or inclusivity but, rather, create a dangerous learning environment where children will be judged by their peers for their differences. The commenter requested that the Department and State Board not adopt standards that have been proven more and more faulty with science that has not been settled and that there is no scientific consensus on the issues. (171)

Response: N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, identifies inequitable practices and defines factors that constitute equity in an educational setting.

Eliminating inequity in school communities and in society requires that inequitable practices in an educational setting be explicitly defined and prohibited. The chapter, as proposed for readoption with amendments and repeals, provides school districts, parents, students, and other citizens with a clear guide and mechanism for all students to have equitable access to educational opportunity and have equitable opportunity for learning by narrowing the opportunity gap.

The Department agrees that addressing the learning loss of students after the COVID-19 pandemic is of paramount importance. The Department is engaged in a number of strategies to support school districts with addressing learning loss due to the COVID-19 pandemic, including the development of resources and opportunities for community members to be involved through the New Jersey Partnership for Student Success, which provides grant opportunities to school districts to enhance learning acceleration, and through support from the county offices of education. The proposed amendments throughout N.J.A.C. 6A:7 support addressing learning loss by ensuring that resources and opportunities are equitably distributed.

38. Comment: The commenter stated that the proposed amendments do not adequately convey the etiology of existing inequality and inequity. (10)

Response: The Department disagrees that the chapter should convey the etiology of existing inequality and inequity. The chapter's purpose is to ensure all students, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq., are provided equal access to educational activities and programs by district boards of education.

39. Comment: The commenter suggested broad changes and revisions at N.J.A.C. 6A:7. The commenter stated that New Jersey has refused to accept liability for, or find a solution to address, educational inequities facing Black and Latino children. The commenter also stated that the State and the Department have not yet provided a plan to address de facto segregation, which is the subject of the lawsuit filed on behalf of the Latino Action Network and the New Jersey Chapter of the NAACP. The commenter further stated that Latino communities represent 23 percent of the State's population and have demonstrated a significant increase in school enrollment and attendance, yet many Latino students are trapped in segregated school districts and overcrowded classrooms, have less access to mental health resources, and lack support surrounding access to bilingual education

needs. The commenter stated that many Latino students live in intergenerational households with students having responsibilities to care for younger siblings and older family members. The commenter also stated that Latino students are subject to economic disparities, racism, substance abuse issues, disciplinary surveillance and policing of their school behavior, and LGBTQIA+ issues. The commenter further stated that Latino students are more likely to attend schools in high-poverty areas, which have experienced the most significant decline in achievement growth. (359)

Response: N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, covers all protected categories listed at N.J.A.C. 6A:7-1.1. The Department is unable to address the remainder of the comment due to pending litigation.

40. Comment: The commenter suggested broad changes at N.J.A.C. 6A:7. The commenter stated the Organisation for Economic Co-Operation and Development (OECD) defines equity in terms of access to education as “[e]quity does not mean that all students obtain equal education outcomes, but rather that differences in students’ outcomes are unrelated to their background or to economic and social circumstances over which students have no control.” The commenter stated that, pursuant to OECD’s definition, New Jersey public schools are failing to provide students equitable access to equal learning opportunities. The commenter stated that third grade reading scores in Newark demonstrate this fact.

The commenter stated that greater equity is not only a social justice imperative but will also have economic benefits. The commenter also stated that increasing funding is not enough to provide equitable educational experiences for students. The commenter further stated that the Department and the State Board are looking to readopt a chapter of the New Jersey Administrative Code that is clearly not working. The commenter also stated that equity commitments should be based upon student outcomes that include: decreasing chronic absenteeism, reducing disproportionate suspension and expulsion rates, increasing early

postsecondary opportunities, providing equitable access to effective teachers, recruiting and retaining a diverse teaching force, embedding cultural competence in school practices, and partnering with community allies.

The commenter stated that each school district should be required to present their performance toward equity at public hearings twice a year and seek input from the public based upon this information. The commenter also stated that the Department and school districts have to stop rubber-stamping policies and plans that only sit on shelves. (360)

Response: The Department disagrees. The commenter cited a definition of “equity” from OECD that does not provide practical instruction or guidance on how to achieve the Department’s goal concerning equity. Therefore, OECD’s definition of equity regarding education and student achievement has limited utility when constructing policies to be employed Statewide to achieve the Department’s goal. The Department’s goal is to mitigate the opportunity gaps that membership in the protected categories may cause, which may result in achievement gaps for students who are members of the protected categories.

The Department also disagrees that N.J.A.C. 6A:7 is not working and will not work unless the particular data suggested by the commenter is used when school districts are identifying equity needs. The proposed amendments will enhance the chapter and will address the commenter’s equity concerns. Further, N.J.A.C. 6A:7-1.4(c)1, as proposed for readoption with amendments, will require the district board of education to assess, prior to developing the comprehensive equity plan (CEP), the school district’s needs for achieving equity in educational programs based on an analysis of student performance data such as National Assessment of Educational Progress (NAEP) and State assessment results, preschool-through-grade-12 promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral

data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including: attendance data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs, discipline, graduation rate, and postsecondary enrolment, student, staff, and community member interviews, enrollment and scoring in advanced classes, and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability.

41. Comment: The commenter stated that the proposed amendments would weaken the ability of school districts to provide students with an equitable education. The commenter also stated that New Jersey has historically wrestled with providing educational equity to students. The commenter questioned how race continues to be the underpinning of many discussions without transparency, accountability, and full implementation. The commenter also stated that racism impacts, on a daily basis, specific groups that are historically and consistently marginalized and that the State Board should address racism rather than remove itself from dealing with its ramifications. The commenter further stated that implementing the Amistad curriculum throughout school systems in the State remains a challenge. (36)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

If the commenter is aware of any school districts struggling with incorporating the

Amistad curriculum, the commenter is encouraged to reach out to the [Amistad Commission](#) for assistance and resources.

42. Comment: The commenter objected to the use of “equity” throughout N.J.A.C. 6A:7. The commenter stated that the concept of America is equality of opportunity and not equity, which, the commenter stated, has a totally different meaning that is Marxist in nature. The commenter also stated that the Department is driving an agenda that further takes away control of education from the local level. The commenter further stated that the Department is engaging in sleight of hand and that the educational tyranny must stop. The commenter additionally stated that equity will destroy freedom, is wrong, and will harm students. Furthermore, the commenter stated that N.J.A.C. 6A:7 will be impossible to implement. The commenter suggested that the Department return to focusing on teaching excellence and students being their best. (111)

Response: The Department is replacing “equal” with “equitable” throughout this chapter because “equal” implies that all students receive the exact same instruction, regardless of a student’s particular needs, while “equitable” supports differentiated instruction that is based on individual student needs.

The Department disagrees with the commenter’s contention that the Department is taking away control of education from the local level. The Department does not review, approve, or actively endorse instructional materials such as sample lesson plans, textbooks, software, or videos in any content area. Material adoption is a school district decision, based upon the local curriculum development and review process, in accordance with N.J.A.C. 6A:8-3.1. All locally adopted instructional materials must be aligned to the school district’s curriculum and the NJSLs, and be current, medically accurate, developmentally and age-appropriate, and developed and selected through meaningful consultation with the school community, including parents. Accordingly, the

Department is not pushing or otherwise advocating an agenda that takes away local control of education.

43. Comment: The commenter objected to the replacement of “equality” with “equity” throughout N.J.A.C. 6A:7. The commenter stated that both equality and equity must be protected at all costs and provided examples of scenarios in which the commenter contended that equality and equity are an issue. The commenter also stated that New Jersey is one of the most racially segregated and racially unbalanced states in terms of wealth. The commenter further stated that “equality” should not be hastily deleted as it was the basis of *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), nearly 70 years ago. The commenter also stated that opportunity needs to be equal, and access needs to be equitable. (365)

Response: The Department disagrees. The usage of “equity” throughout the chapter promotes rights rather than take them away. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes.

Given the context, the Department’s use and focus on “equity” recognizes that although discrimination and legally mandated segregation is prohibited, “opportunity gaps” can still arise for students due to or related to their membership in one of the protected categories and the history of discrimination surrounding the protected categories. The focus on equity recognizes that “equality” means sameness, uniformity, and equivalence, and focuses on a student’s equal access to educational resources. However, providing equal access does not necessarily remedy or address the opportunity gaps that still remain due to a student’s membership in a protected class. Equity and equitable access to educational resources seeks to address this and recognizes that uniformity and sameness do not, and cannot, fully address opportunity gaps and the resulting achievement gaps. The focus on

equity is to ensure that opportunity is provided on equitable and fair grounds and in conformance with evidence-based best practices in education.

44. Comment: The commenter stated that the biggest problem is not the achievement gap between Black and White students, but the distance between current illiteracy rates among all students and true academic excellence. In support of this position, the commenter provided data indicating that 36 percent of students who took the ACT in 2019 did not achieve college readiness in any of the four subject areas. The commenter also provided data stating that 19 percent of American high school graduates are functionally illiterate. The commenter stated that America would be better if the underlying causes of America’s widespread and race-blind battle with illiteracy was addressed and not only through a racial lens. The commenter also stated that using critical race theory to frame American educational failure ignores the long history of Black American educational excellence. The commenter further stated that critical race theory deceptively characterizes educational achievement as a Black problem by stereotyping Black students and lulling White parents into a false sense of security. (346)
- Response: The readoption with amendments and repeals of N.J.A.C. 6A:7 does not focus only on achievement gaps related to Black and White students but, rather, on equity in education for all students.

45. Comment: The commenters disagreed with replacing “high teacher expectations for student learning” with “professional standards for teachers and school leaders” at N.J.A.C. 6A:7-1.1(a). The commenters stated that the proposed amendment will lower expectations for children to promote a fairy tale of constant equity, and that it will be a failure for children. (160 and 161)

Response: The Department disagrees. Existing N.J.A.C. 6A:7-1.1(a) requires the educational programs to include, in part, high teacher expectations for students’ learning.

Instead, the proposed amendments require that the educational programs include the professional standards for teachers and school leaders to align the chapter's purpose with N.J.A.C. 6A:9, Professional Standards, and 6A:10, Educator Effectiveness. The proposed amendments will create consistency among the chapters in Title 6A of the New Jersey Administrative Code and provide more definitive standards, as opposed to the undefined "high teacher expectations for student learning."

46. Comment: The commenter requested that the protected classes at N.J.A.C. 6A:7-1.1(a) be expanded to include formerly incarcerated students and students with substance abuse issues. (363)

Response: The Department declines to adopt the commenter's recommended changes regarding N.J.A.C. 6A:7-1.1(a). N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, ensures all students, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq., are guaranteed equal access to all education programs, services, and benefits of the school district. The protected categories mirror those listed in State law, specifically the NJLAD. However, school districts can create policies that include classes beyond those cited in this chapter if they meet the needs of the school community.

47. Comment: The commenter stated that protected categories as set forth at N.J.A.C. 6A:7-1.1(a) should be expanded to include students with substance abuse or misuse problems, students who were formerly incarcerated or in immigrant detention, and students whose parents are formally incarcerated or detained, or deported because of immigration status. (359)

Response: The Department appreciates the comment but declines to make the suggested changes. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, ensures all students, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq., are guaranteed equal access to all education programs, services, and benefits of the school district. The protected categories mirror those listed in State law, specifically the NJLAD. However, school districts can create

policies that include classes beyond those cited in this chapter if they meet the needs of the school community.

48. Comment: The commenter objected to the addition of “immigration status” to the list of protected categories at N.J.A.C. 6A:7-1.1(a). The commenter stated that illegal immigrants need to be denied education in New Jersey and that American schools are and should be for American children. The commenter also stated that undocumented immigrant children and the children of undocumented immigrant parents are invading the country, are here unlawfully, and should not receive the benefits provided by the government, including an education. The commenter further stated that State taxpayers are being bankrupted because of the education costs of undocumented immigrant children and the children of undocumented immigrant parents. (46)

Response: The Department disagrees as the commenter’s suggestion would violate Federal and State law.

49. Comment: The commenters stated that the proposed amendments at N.J.A.C. 6A:7 will weaken efforts to provide equal educational opportunities for all children who attend New Jersey’s public schools. The commenters stated that the streamlined language regarding the protected classes and categories compromises the attention given to each group’s different needs. The commenters also objected to deleting the specific protected categories throughout N.J.A.C. 6A:7. (19, 26, 28, 31, 32, 38, 39, 48, 460, 461, 462, 529, 791, and 792)

50. Comment: The commenter stated that in streamlining the language regarding protected classes and categories alters the intent and compromises how the needs of each group are to be addressed. (36)

Response to Comments 49 and 50: The Department disagrees. Streamlining N.J.A.C. 6A:7 is necessary given the breadth of protected categories that are protected by Art. I,

Par. 5 of the New Jersey State Constitution; the NJLAD; 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 IDEA (20 U.S.C. §§ 1400 et seq.) and set forth at N.J.A.C. 6A:7-1.1(a), as proposed for amendment, and to ensure that members of the protected categories receive the appropriate protections.

51. Comment: The commenters stated that the proposed amendments are a violation of parental and student rights in certain protected classes and that some students are being discriminated against. (98 and 349)

Response: The Department disagrees. Nothing in the proposed amendments is contrary to the rights and privileges set forth in the New Jersey State Constitution. Contrary to the commenters' statement that the proposed amendments discriminate against some students, the proposed amendments at N.J.A.C. 6A:7 ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equitable access to educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq.

52. Comment: The commenter objected to the removal of "and services" at N.J.A.C. 6A:7-1.1(a) and (b). The commenter also objected to the removal of the references to the Equal Employment Opportunity Act of 1972 and the Equal Pay Act of 1962 at N.J.A.C. 6A:7-1.1(b). The commenter further objected to the removal of "contract and employment practices" throughout N.J.A.C. 6A:7. (27)

Response: The Department disagrees. The repeal of "and services" is aligned with the purpose of the chapter and is consistent with the other proposed amendments throughout

N.J.A.C. 6A:7 to be consistent with the existing definition of “educational activities and programs” at N.J.A.C. 6A:7-1.3. The deletion of references to the Equal Employment Opportunity Act of 1972, the Equal Pay Act of 1962, and of “contract and employment practices” is consistent with the chapter’s purpose and scope. N.J.A.C. 6A:7-1.8, requires school districts to ensure all persons have equal and bias-free access to all categories of employment in the State’s public education system. The section also prohibits district boards of education from entering into any contract with a person, agency, or organization that discriminates on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. Further, this section prohibits district boards of education from assigning, transferring, promoting, or retaining staff, or failing to do so, on the sole basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. This section requires district boards of education to ensure equal pay for equal work among members of the school district’s staff. All of the existing section’s prohibitions are already extensively covered by existing labor laws and rules; therefore, this section is superfluous and does not provide any greater protection than existing law.

53. Comment: The commenter objected to the proposed amendment at N.J.A.C. 6A:7-1.1. The commenter stated that the summary provided at the December 7, 2022, State Board meeting, which described N.J.A.C. 6A:7 as providing rules governing equality and equity in educational programs, services, and benefits, represents a change in scope of N.J.A.C. 6A:7 and the commenter objected to this change. The commenter further stated that the proper purpose of N.J.A.C. 6A:7 is to define “the responsibilities of district boards of education in complying with the current law and public policy governing the elimination

of discrimination and the provision equal educational opportunity in the public schools” as stated in the summary provided at the September 4, 2002, State Board meeting. (27)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments, provides rules governing equality and equity in educational activities and programs to guarantee each student equitable access to all educational programs, services, and benefits of the school district regardless of the student’s housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. The rules also provide an objective basis for evaluating a school district’s progress toward equity in educational activities and programs and provide the basis for district boards of education to identify areas in which technical assistance may be needed. The rules ensure school districts provide for students’ basic rights to equitable treatment and services, and to a quality education. The proposed amendments will promote equity for students. Further, the scope of the rules requires district boards of education to establish policies and procedures for the provision of educational activities and programs for all students, regardless of the protected class.

54. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.2 that states that references to “school district” or “district board of education,” for purposes of this chapter, are inclusive of charter schools and renaissance school projects. The commenters expressed concern that schools will be expanded in the future to include private or home schools. The commenters stated that neither the State Board nor school districts should govern charter schools, renaissance school projects, or home schools. (53 and 165)

Response: The Department disagrees. Pursuant to N.J.S.A. 18A:36A-18, the State Board has authority to adopt rules and regulations governing charter schools. Pursuant to N.J.S.A. 18A:36C-13, the Commissioner has the authority to adopt rules and regulations governing renaissance school projects. Both charter schools and renaissance school projects are public

schools pursuant to N.J.S.A. 18A:36A-3 and 18A:36C-7, respectively, and, therefore, are subject to oversight and supervision by the Department. The inclusion of “renaissance school projects” at N.J.A.C. 6A:7-1.2 clarifies that the chapter applies to renaissance school projects because they are public schools. Homeschooling of children is permitted pursuant to N.J.S.A. 18A:38-25, so long as school-age children receive academically equivalent instruction to that provided in the public schools, pursuant to *State v. Massa*, 95 N.J. Super. 382 (Law. Div. 1967). State law does not authorize the Commissioner or the State Board to regulate homeschooling.

55. Comment: The commenter expressed concern that N.J.A.C. 6A:7 will influence students, teachers, staff, and the finances of the private school that the commenter’s daughter attends. The commenter also stated that it is their understanding that all schools, including private schools, will be forced to comply with the proposed amendments at N.J.A.C. 6A:7. (852)

Response: The Department disagrees. Nothing at N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, regulates private schools. Pursuant to N.J.A.C. 6A:7-1.2, the chapter specifies the standards that applies to district boards of education providing general education services, special education services, adult education programs, charter schools, and renaissance school projects, all of which are public schools.

56. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.2 that states a school district or district board of education includes renaissance school projects. The commenters also objected to the proposed definition for “chief school administrator” at N.J.A.C. 6A:7-1.3, as well as the requirement that school districts appoint an affirmative action officer pursuant to N.J.A.C. 6A:7-1.5(a). The commenters stated that the rules usher in more administrators, commissions, and bureaucracy, which burdens taxpayers and district boards of education while doing nothing to improve education. (160 and 161)

Response: The Department disagrees. Pursuant to N.J.S.A. 18A:36C-13, the Commissioner has authority to adopt rules and regulations governing renaissance school projects. Renaissance school projects are public schools pursuant to N.J.S.A. 18A:36C-7 and, therefore, are subject to oversight and supervision by the Department. The inclusion of “renaissance school projects” at N.J.A.C. 6A:7-1.2 clarifies that the chapter applies to renaissance school projects because they are public schools.

The proposed definition of “chief school administrator” will not require school districts to hire additional administrators; instead, it clarifies that the chief administrator of an LEA includes all of the various types of chief school administrators that already exist. The existing requirement at N.J.A.C. 6A:7-1.5(a) for district boards of education to appoint an affirmative action officer does not impose a new requirement upon LEAs.

57. Comment: The commenter stated that comments made by Vice President Mulvihill showed a lack of distinction among the histories of different minority groups in this country and demonstrates why people of color often should not be lumped together. The commenter also stated that Vice President Mulvihill’s statements regarding Asian students outperforming White students demonstrate how everyone has been trained; speaking about educational achievement is in terms of how White students perform. The commenter also stated that society must reckon with the role that institutionalized oppression and discrimination have played in the structuring of this country. The commenter further stated that State Board Member Aponte’s statements about the complexity of the achievement gap demonstrates different lived experiences. (853)

Response: The Department recognizes that institutional and historical oppression and discrimination bears some responsibility for the lack of opportunity and achievement. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, ensures all students, regardless of housing status, socioeconomic status, immigration status, or any

protected category set forth at N.J.S.A. 10:5-1 et seq., are guaranteed equal access to all education programs, services, and benefits of the school district. The protected categories mirror those listed in State law, specifically the NJLAD.

58. Comment: The commenter requested that “educational resources” be included in the definitions at N.J.A.C. 6A:7-1.3 and that the term be used throughout the chapter. The commenter stated that students need to be able to authentically step into another person’s shoes to understand how others feel and develop empathy. The commenters also stated that books help students affirm their stories. The commenter further stated that too many individuals are working to circumvent the process that schools utilize to select materials to meet the curriculum mandates for the Amistad Commission, the Commission on Holocaust Education, the LGBTQIA+ curriculum, and the diversity and inclusion curriculum that are all mandated by State law. (854)

Response: The Department agrees with the commenter concerning the importance of students developing empathy and the role diverse books play in that development. The Department declines to adopt the commenter’s proposed changes. The implementation of educational activities and programs is inclusive of educational resources. The addition of “educational resources” throughout the chapter is unnecessary as it is already implied and encompassed within the implementation of programs to ensure educational equity.

Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSLS.

59. Comment: The commenter stated that there is a need for a clear definition of “educational activities and programs,” and resources should be provided at N.J.A.C. 6A:7. The commenter also stated that the current definition of “educational activities and programs” at N.J.A.C. 6A:7-1.3 does not delineate between what educational activities, educational programs, and educational resources are as components of curriculum. The commenters

further stated that educational activities, educational programs, and educational resources are all components of the learning process, but they differ in their purpose, scope, and structure. The commenter also stated that the current definition of “educational activities and programs” at N.J.A.C. 6A:7-1.3 does not delineate between what educational activities, educational programs, and educational resources are components of curriculum. The commenter further stated that strong and consistent definitions of these terms would support school districts in providing materials in support of the NJSLS. (854)

Response: The Department declines to adopt the commenter’s proposed changes. The implementation of educational activities and programs is inclusive of educational resources. The addition of a definition for “resources including school library materials” is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSLS. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSLS.

60. Comment: The commenter suggested that the term “achievement gap” be amended to apply only to individuals and not to groups of students. The commenter stated that there are brilliant students of every race, and they are harmed by being considered a group. (46)

Response: The Department declines to adopt the commenter’s suggestion. The purpose of N.J.A.C. 6A:7 is to ensure all students, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq., are provided equal access to educational activities and programs by district boards of education. To fulfill this purpose and ensure equity in education, “achievement gap,” as proposed for amendment, 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).

61. Comment: The commenter supported the definition of “achievement gap,” as proposed for amendment, and the proposed new term “opportunity gap” at N.J.A.C. 6A:7-1.3, but stated that the terms are deficit-based language and thinking. The commenter urged a parallel shift to the use of asset-based language in this chapter as has been done in other chapters of Title 6A of the New Jersey Administrative Code, most notably N.J.A.C. 6A:15, Bilingual Education. (9)

Response: The Department disagrees that the terms are deficit-based language and thinking. Specifically, “opportunity gap” is an asset-based term that represents the disparity in access to equitable educational opportunities that are regulated at N.J.A.C. 6A:7, based upon membership in one of the protected categories listed at N.J.A.C. 6A:7-1.1(a). “Achievement gap” represents the results created by opportunity gaps and other factors. Each term represents a separate and distinct issue, and the terms are complimentary.

62. Comment: The commenter thanked the Department for reconsidering the repeal of the definition of “achievement gap” at N.J.A.C. 6A:7-1.3. The commenter stated that the definition of “opportunity gap” at N.J.A.C. 6A:7-1.3 and the term’s use incorrectly represents the shared responsibility for learning. The commenter also expressed optimism that the use of both definitions within the context of each other will reduce any risk. (33)

Response: The Department thanks the commenter for the support for the proposed amendments to the definition of “achievement gap.” The Department disagrees with the commenter’s statement that “opportunity gap” incorrectly represents the shared responsibility for learning. The proposed definition of “opportunity gap” is an asset-based term that represents the disparity in access to the equitable educational opportunities that are regulated at N.J.A.C. 6A:7, based upon membership in one of the protected categories listed at N.J.A.C. 6A:7-1.1(a). Each term represents a separate and distinct issue, and the terms are complimentary. “Opportunity gap” represents the access to education activities

and programs, while “achievement gap” represents the results created by opportunity gaps and other factors. The Department recognizes that student outcomes are the product of both the opportunities and achievement. As such, the Department seeks to eliminate the differences of opportunity that may result from membership in one of the protected categories, so that student achievement and success truly represent the efforts and merits of students and the educators who serve them.

63. Comment: The commenter stated that various proposed amendments at N.J.A.C. 6A:7 are inconsistent with the amended definition of “equity” at N.J.A.C. 6A:7-1.3. The commenter stated that the continued use of “achievement gap” throughout N.J.A.C. 6A:7 is antithetical to equity and addresses only short-term solutions that are unlikely to address the long-term underlying problem. The commenter supported the addition of the term “opportunity gap” but stated that it is a crude definition because it places the onus on the individual, citing their membership in a marginalized group as the cause of their lack of opportunity or success. The commenter cited references in support of the commenter’s position. (853)

Response: The Department disagrees that the definition of “opportunity gap” is crude. “Opportunity gap” is an asset-based term that represents the disparity in access to equitable educational opportunities that are regulated based upon the membership in one of the protected categories listed at N.J.A.C. 6A:7-1.1(a). “Achievement gap” represents the results created by opportunity gaps and other factors. Each term represents a separate and distinct issue, and the terms are complimentary. Opportunity gap as utilized at N.J.A.C. 6A:7 is not intended to represent all possible opportunities gaps that potentially exist, which are unrelated to membership in the protected categories. Instead, “opportunity gap” addresses the specific gaps that are the result of discrimination or lack

of opportunities that are related to membership in the protected categories. The proposed definition does not put the onus on the individual.

64. Comment: The commenter objected to the proposed amendments regarding “sex and gender” throughout N.J.A.C. 6A:7. The commenter also objected to the existing definition of “gender identity or expression” at N.J.A.C. 6A:7-1.3 because it states, “person’s assigned sex at birth.” (221)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7-1.3 are based upon medically accurate and evidence-based information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

65. Comment: The commenter stated that the proposed amendments at N.J.A.C. 6A:7 have nothing to do with discrimination. The commenter also stated that the nation faces a mental health crisis and that the trend to redefine gender is a destructive movement that harms children.

The commenter objected to the proposed amendments regarding sex and gender, including the existing definition of “gender identity or expression” at N.J.A.C. 6A:7-1.3 because it states, “person’s assigned sex at birth.” The commenter stated that there are only two sexes because persons are born with only XX or XY chromosomes. The commenter also stated that denying the reality of biological sex is to ignore well-established data in favor of an evolving trend. The commenter further stated that thinking that gender is different from biology does not make it so and that living in a body that’s biologically male with a mindset that identifies as female contradicts reality and lacks credible evidence. The commenter also stated that suggesting that children can change sexes is irresponsible and an abdication of adult responsibility, especially without credible data. The commenter further stated that cases demonstrate the harm that is being

perpetrated on a generation of children who are fooled into thinking they can choose or express a gender identity without consequences. The commenter stated that anyone who advocates for these policies bears the burden of proof before State boards of education when considering such life-altering policies. (71)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7-1.3 are based upon medically accurate and evidence-based information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

66. Comment: The commenter objected to the use of “opportunity gap” as an addition to “achievement gap” at N.J.A.C. 6A:7-1.3. The commenter stated that it is the historic and prejudicial policies and practices of political, economic, social, and educational systems in this country that cause the gaps, not a characteristic of the affected groups, or membership per se in a protected class. The commenter suggested that the definitions should be clarified to specify the other factors that cause the gaps in opportunity and achievement. (11)

Response: The Department recognizes that there are many factors that impact student opportunity and achievement. However, the purpose of N.J.A.C. 6A:7 is to ensure that all students, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. are provided equal access to educational activities and programs by district boards of education. The Department recognizes that the characteristics of the members of the protected classes are not the cause of the achievement and opportunity gaps; rather, societal structures cause the gaps due to the fact that a student is within one of the protected classes. In keeping with this purpose, the Department is focusing on “opportunity gaps” and “achievement gaps” that are the result of membership in one of the protected classes.

67. Comment: The commenters objected to the use of “opportunity gap” as an addition to “achievement gap” at N.J.A.C. 6A:7-1.3. The commenters stated that the Department is placing the onus on students rather than structures and systems by declaring that the gaps are a result of membership in one or more protected categories or classes. (5, 6, 7, 8, 23, and 30)

Response: The Department disagrees. There are many factors that impact student opportunity and achievement. Each term represents a separate and distinct issue, and the terms are complimentary. “Opportunity gap” represents the access to education activities and programs, while “achievement gap” represents the results created by opportunity gaps and other factors. The Department recognizes that student outcomes are the product of both the opportunities and achievement. As such, the Department seeks to eliminate the differences of opportunity that may result from membership in one of the protected categories, so that student achievement and success truly represents the efforts and merits of students and the educators who serve.

68. Comment: The commenter stated that the uncritical use of “opportunity gap” in addition to “achievement gap” needs to be further analyzed as to how racism intersects with opportunity. (36)

Response: The Department disagrees. The use of “opportunity gap” as proposed at N.J.A.C. 6A:7-1.3 is an asset-based term that represents the disparity in access to equitable educational opportunities that are regulated at N.J.A.C. 6A:7 based upon membership in one of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

“Achievement gap” represents the results created by opportunity gaps and other factors. Each term represents a separate and distinct issue, and the terms are complimentary.

69. Comment: The commenter stated that the proposed new term “opportunity gap” at N.J.A.C. 6A:7-1.3 should not be used in the chapter. (46)

Response: The Department disagrees. The proposed definition of “opportunity gap” is an asset-based term that represents the disparity in access to equitable educational opportunities that are regulated by this chapter based upon the membership in one of the protected categories listed at N.J.A.C. 6A:7-1.1(a). The Department is also proposing to maintain the definition of “achievement gap” at N.J.A.C. 6A:7-1.3, with amendments, and its use throughout the chapter. Each term represents a separate and distinct issue, and the terms are complimentary. “Opportunity gap” represents the access to education activities and programs and “achievement gap” represents the results created by opportunity gaps and other factors. The Department recognizes that student outcomes are the product of both the opportunities and achievement. As such, the Department seeks to eliminate the differences of opportunity that may result from membership in one of the protected categories, so that student achievement and success truly represents the efforts and merits of students and the educators who serve.

70. Comment: The commenter stated that the Department’s proposed amendments to the definitions of the Amistad Commission and the Commission on Holocaust Education at N.J.A.C. 6A:7-1.3 were reported in the media. The commenter stated that students need to learn well-rounded facts and address the moral and emotional issues around the Holocaust and the history of African Americans in the United States. The commenter commended the Acting Commissioner and the Department for the proposed amendments at N.J.A.C. 6A:7-1.3. (3)

Response: The Department thanks the commenter for their support. As proposed for amendment, the definition of “African-American history curriculum” is being replaced with “Amistad Commission curriculum,” and “Holocaust and genocide curriculum” is being replaced with “Commission on Holocaust Education curriculum” at N.J.A.C. 6A:7-1.3.

The Amistad Commission curriculum is instructional content, materials, and methods that were developed by the Amistad Commission and infused into the 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.

The Commission on Holocaust Education curriculum is instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education, infused into the NJSLS, and meet the Holocaust/genocide mandate 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.

71. Comment: The commenter supported the proposed amendments at N.J.A.C. 6A:7-1.3 and 1.7(b) regarding the Amistad Commission and the Commission on Holocaust Education and the allowance for additional curricular mandates in the future. The commenter also suggested that the Department include at N.J.A.C. 6A:7-1.3 and 1.7(b) all existing curricular mandates. The commenter also requested that the Department add the mandates for school districts to provide instruction to middle school and high school students on the political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people, pursuant to N.J.S.A. 18A:35-4.35, as well as instruction to students in kindergarten through grade 12 on the history and contributions of Asian Americans and Pacific Islanders, pursuant to N.J.S.A. 18A:35-

4.44. The commenter stated that naming all existing curriculum mandates would improve the chapter's clarity, while simultaneously leaving space for future work on inclusion and representative curriculum. (9)

Response: The Department thanks the commenter for their support. However, the Department declines to include all of the curricular mandates as the commenter suggests. The renaming and continued inclusion of the Amistad Commission and the Commission on Holocaust Education curriculum at N.J.A.C. 6A:7-1.3 and 1.7(b) recognizes that these particular curricular mandates have been included at N.J.A.C. 6A:7 since its initial adoption on June 2, 2003. Proposed N.J.A.C. 6A:7-1.7(b)7 allows for the flexibility and inclusion of the additional curricular mandates that have recently been enacted, including the history and contributions of Asians and Pacific Islanders, pursuant to N.J.S.A. 18A:35-4.44, and the political, economic, and social contributions of person with disabilities, and lesbian, gay, bisexual, and transgender (LGBT) people, pursuant to N.J.S.A. 18A:35-4.35, and any other curricular mandates that the New Jersey Legislature deems appropriate in the future. To continue to enumerate additional curricular mandates will not serve the purpose of streamlining and clarifying rules, procedures, and operations and will unnecessarily create additional redundancy with the mandates, which already exist statutorily.

72. Comment: The commenter objected to the definitions of “Amistad Commission curriculum” and “Commission on Holocaust Education curriculum” at N.J.A.C. 6A:7-1.3 and the use of the terms. The commenter stated that students should be taught about the many cultures through the ages that found reasons to enslave some people and free others. The commenter also stated that concentrating on only two systems does not address the worldwide issues of killing and slavery. The commenter further stated that the Department needs to enlarge its view. (46)

Response: The Department disagrees. Proposed new N.J.A.C. 6A:7-1.7(b)4 and 7 will ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NSLS are taught, including curriculum concerning the protected classes at N.J.A.C. 6A:7-1.1(a) or curriculum developed by any applicable commission, including the Amistad Commission and the New Jersey Commission on Holocaust Education.

The Amistad Commission curriculum is instructional content, materials, and methods that were developed by the Amistad Commission and infused into the 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.

The Commission on Holocaust Education curriculum is instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education, infused into the NJSLs, and meet the Holocaust/genocide mandate 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.

Both curricula, as infused into the NJSLs, address slavery, discrimination, and genocide as they pertain to the world at large.

73. Comment: The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.3 regarding the renaming of “African-American history curriculum” to the “Amistad

Commission curriculum.” The commenter also objected to the requirement that the curriculum be included in the NJSLS and that school districts must ensure that the content is taught. The commenter stated that all of history is filled with races that have been enslaved, including ancient Egypt and Rome, and medieval Europe. The commenter also stated that, in the present day, countries like China and Egypt still enslave people. The commenter further stated that the fact that Black people from other countries still immigrate to the United States should be taught along with the information that portrays the United States in a negative light. (46)

Response: The Department disagrees. The Amistad Commission curriculum is instructional content, materials, and methods that were developed by the Amistad Commission and infused into the 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.

74. Comment: The commenter stated that the definition of “African-American history curriculum” at N.J.A.C. 6A:7-1.3 is vague and subjective. The commenter also stated that Holocaust and genocide curriculum and the other definitions are an explicit declaration of forcing students to believe what they are told. The commenter further stated that it is not the government’s duty to subjugate the thoughts of the citizens, there is nothing in the constitution or law that places such a burden upon citizens, and it is explicit indoctrination. (422)

Response: As proposed for amendment, the definition of “African-American history curriculum” at N.J.A.C. 6A:7-1.3 is being replaced with “Amistad Commission

curriculum.” The Amistad Commission curriculum is instructional content, materials, and methods that were developed by the Amistad Commission and infused into the NJSLS, in accordance with N.J.S.A. 18A:35-4.42 and 4.43. As proposed for amendment, the definition of “Holocaust and genocide curriculum” is being replaced with “Commission on Holocaust Education curriculum.” The Commission on Holocaust Education Curriculum is instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education, infused into the NJSLS, and meet the Holocaust/genocide mandate at N.J.S.A. 18A:35-28. Both curricula, as infused into the NJSLS, address slavery, discrimination, and genocide as they pertain to the world at large and do not constitute indoctrination. They are statutorily mandated and, therefore, are supported by law.

75. Comment: The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.3 regarding the repeal of the term “disability” and its use throughout the chapter. The commenter stated that “disabled” has a meaning and should continue to be used. (46)
Response: The Department disagrees. “Disability” is in the chapter’s purpose at N.J.A.C. 6A:7-1.1(a), which aligns with the protected categories in the NJLAD. Each time N.J.A.C. 6A:7-1.1(a) is cited in the chapter, all of the protected categories, including having a disability, are automatically referenced. Therefore, the definition of “disability” is no longer necessary.
76. Comment: The commenter objected to the removal of the definitions of “disability” and “national origin” at N.J.A.C. 6A:7-1.3. The commenter suggested that the definitions for “school and classroom practices” and “school desegregation,” which were removed in the 2016 readoption of the chapter, be reinstated. The commenter stated that equity cannot be streamlined or approached as a chore and that chapter should include the definitions of all protected classes. (27)

Response: The Department disagrees. “Disability” and “national origin” are in the chapter’s purpose at N.J.A.C. 6A:7-1.1(a), which aligns with the protected categories in the NJLAD. Each time N.J.A.C. 6A:7-1.1(a) is cited in the chapter, all of the protected categories, including having a disability, or references to national origin are automatically included. Therefore, the definitions of “disability” and “national origin” are no longer necessary.

77. Comment: The commenter questioned the inclusion of both “equality” and “equity” in the definitions at N.J.A.C. 6A:7-1.3. The commenter stated that “equity” has no correlation to the definitions proposed at N.J.A.C. 6A:7-1.3 and it is a word of entitlement and not measure. The commenter also stated that this is an example of the rampant use of buzzwords in society. The commenter stated that N.J.A.C. 6A:7 was written by a narrow group of people with an exclusive and narrow-minded ideology.
- (422)

Response: The Department disagrees. “Equal” implies that all students receive the exact same instruction regardless of a student’s particular needs, while “equitable” supports differentiated instruction that is based on individual student needs. “Equitable educational opportunity” means 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 who have shaped and continue to shape the United States of America and the global society. The proposed amendment will ensure the term is inclusive of all protected categories, pursuant to NJLAD, Title IX, and N.J.S.A. 18A:36-20 and 18A:38-5.1.

78. Comment: The commenter expressed support for the proposed definitions of “education equity” and “equity” at N.J.A.C. 6A:7-1.3 but objected to the language that was deleted in the definitions. The commenter stated that addressing root causes through “opportunity gaps,” as opposed to “achievement gaps,” better represents the Department’s intended

focus as described at first discussion. The commenter questioned the commitment of the Department to addressing opportunity gaps. The commenter argued that the definitions of “education equity” and “equity” should be strengthened by including the insertions and the bracketed eliminations in the definition to better reflect a focus on opportunity gaps.

(27)

Response: The Department disagrees. The definitions, as proposed for amendment, include both “achievement gap” and “opportunity gap,” where appropriate, to support the Department’s commitment to addressing opportunity gaps.

79. Comment: The commenter expressed appreciation for the Department’s presentation of the proposed amendments at N.J.A.C. 6A:7 and the comments made by some of the State Board members. The commenter disagreed with the removal of “equality” in the chapter’s title and at N.J.A.C. 6A:7-1.3 and various places throughout the chapter. The commenter stated that many people confuse “equality” and “equity” and use them synonymously even though they are not synonyms.

The commenter shared an essay written by the commenter’s son. The essay described an experiment related to the administration of an IQ test that was conducted in 1964 by Robert Rosenthal. The essay stated that the experiment proved Mr. Rosenthal’s hypothesis that teachers’ treatment of students who were believed to be on the verge of an increased IQ directly affected and caused the actual IQ increase. The essay also stated that small behaviors tremendously affect student success and that a student who is expected to fail will fail and a student who is expected to succeed will succeed. The essay further stated that “equity” and “equality” are often used interchangeably, but they are not the same. The essay stated that “equality” is a one-size-fits-all approach and disregards individual needs. The essay also stated that “equity” refers to fairness and justice and ensures that everyone has what they need to be successful regardless of background or

circumstances. The essay further stated that equity ensures additional support or resources are provided to certain individuals or groups who may have been historically marginalized. The essay concluded that equity is not just a goal to be attained, but a journey to be undertaken. The essay also stated that the journey requires active participation and commitment of every member of society and is achieved through higher expectations, trained teachers, and students in classrooms.

The commenter suggested that, if “equality” is deleted at N.J.A.C. 6A:7, that its definition be maintained as a literacy piece and that a thorough definition of “equity” be included. The commenter suggested “[e]quity recognizes that each [student] has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.” (35)

Response: The Department declines to adopt the commenter’s suggestions. The Department proposes to repeal “equality” throughout the chapter because “equity,” as proposed for amendment, better aligns with current terminology and practices in education.

The Department’s objective in the proposed amendments at N.J.A.C. 6A:7, is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

80. Comment: The commenter stated that the replacement of “equality” with “equity” is a full replacement of the entire chapter. The commenter also stated that “equity” is subjective and a grey determination that will cause a lack of equality and more

discrimination. (238)

Response: The Department disagrees that N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is a complete replacement as the amendments are changes to existing rules. The usage of “equity” promotes rights rather than takes them away. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes.

81. Comment: The commenter objected to the use of “equity” throughout N.J.A.C. 6A:7. The commenter stated that “equality” should be utilized instead and that all races should have “equal” opportunities. The commenter also stated that the Department should not be using the regulatory process to advocate for the advancement of particular races. The commenter further stated that the proposed use of “equity” is racial discrimination, is illegal, and should be banned. (46)

Response: The Department disagrees. The usage of “equity” promotes rights rather than takes them away. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. The Department’s objective in the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

82. Comment: The commenter stated that students should have “equal” access to programs and not “equitable” access. The commenter stated that the change in terminology will bring harm to brilliant students. (46)

Response: The Department disagrees. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes, including students who are high achievers. The proposed amendments will support differentiated instruction and formative assessments aligned to the NJSLs, including those for high-achieving students. The Department is replacing “equal” with “equitable” throughout the chapter because “equal” implies that all students receive the exact same instruction regardless of a student’s particular needs, while “equitable” supports differentiated instruction that is based on individual student needs. The continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

The Department’s objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

83. Comment: The commenter commended the Department for its work on N.J.A.C. 6A:7, but objected to N.J.A.C. 6A:7, as proposed for readoption with amendments. The commenter objected to the replacement of “equality” with “equity” and “equal educational opportunity” with “equitable educational opportunity,” respectively, throughout the chapter. The commenter questioned whether the State Board has the authority to make the proposed amendments. (245)

Response: “Equitable educational opportunity” aligns the definition with current terminology and practices in the field of education. “Equal” implies that all students receive the exact same instruction regardless of a student’s particular needs, while “equitable” supports differentiated instruction that is based on individual student needs.

“Equitable education opportunity” also means 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 who have shaped and continue to shape the United States of America and the global society. The proposed amendment will ensure the term is inclusive of all protected categories. N.J.A.C. 6A:7, as proposed for readoption with amendments, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board’s rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, proposal, and adoption of the Department’s rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

84. Comment: The commenters stated that the Department does not have the authority to codify the new law. The commenters also stated that the replacement of “equality” with “equity” is a full replacement of the entire chapter. The commenters further stated that the proposed amendments reject the principle that every child has the right to life, liberty, and the pursuit of happiness and that the State cannot protect the rights of certain groups by stripping the rights of others. The commenters also stated that the proposed amendments are an effort to transform everything the United States is founded on, and that the Department no longer holds that all men were created equal. (33, 40, 46, 55, 64, 71, 89, 98, 101, 111, 116, 119, 127 through 155, 157, 158, 159, 190, 227, 238, 291, 299, 319, 322, 323, 324, 351, 353, 366 through 373, 395, 396, 398, 401, 404, 407, 408, 409,

411, 418, 419, 421, 424, 478, 488, 496, 503 through 528, 530 through 543, 545, 546, 547, 549, 550, 551, 552, 553, 555 through 564, 566, 567, 568, 569, 572, 573, 574, 576, 577, 579, 793, 794, 797, 802, 804, 805, 806, 808, 810, 812, and 813)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15.

The usage of "equity" promotes rights rather than take them away, as suggested by the commenter. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. The Department's objective in the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

85. Comment: The commenter stated that the replacement of "equality" with "equity" would go against everything on which the United States was founded. The commenter also stated that the proposed amendments erase the belief and ideal set forth in the Declaration of Independence that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." The commenter stated this country was shaped on the belief that all people have natural human equality. (98)

Response: The Department disagrees. The usage of "equity" promotes rights rather than takes them away, as suggested by the commenter. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments

that sustain opportunities for excellent outcomes. The Department’s objective in the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

86. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.3 that will change the term “equal educational opportunity” to “equitable educational opportunity.” The commenters also objected to the focus on equity throughout all aspects of education. The commenters stated that this opens the door to take resources from one group of people and give the resources to another group of people. The commenters also stated that equity can be utilized to indoctrinate children and will cause a lowering of standards to produce the same student outcomes. (94, 269, 464, 465, 467, 481, and 809)

Response: The Department disagrees. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. The Department’s objective in the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

“Equitable educational opportunity” means 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 who have shaped and continue to shape the United States of America and the global society.

87. Comment: The commenter objected to the proposed replacement of “equal education opportunity” with “equitable educational opportunity” at N.J.A.C. 6A:7-1.3 and the use of the latter term throughout the chapter. The commenter stated that “equitable educational opportunity” should be banned. (46)

Response: The Department disagrees. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. The Department’s objective in the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students. “Equitable educational opportunity” means 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 who have shaped and continue to shape the United States of America and the global society.

88. Comment: The commenters objected to the repeal of “the public schools of” from the definition of “equitable educational opportunity” at N.J.A.C. 6A:7-1.3. The commenters also stated that the proposed amendments are broad and overbearing, will confuse children, erase gender, strip parental rights, and silence religious liberty. The commenters stated that the Department will attempt to place LGBTQIA+ rights above all others and

the Department will use the amendments to force its view of equity into every club, activity, and youth program. The commenters requested that “the public schools of” not be deleted because the Department has authority over only public schools, not other groups that use school facilities or land. (68, 88, 89, 94, 101, 112, 119, 127, 143, 165, 168, 170, 178, 187, 190, 194, 198, 199, 200, 211, 214, 231, 245, 251, 267, 268, 273, 281, 283, 286, 300, 306, 319, 324 through 339, 341 through 346, 376, and 425)

Response: The Department disagrees. The proposed amendments to the definition of “equitable educational opportunity” will not result in the expansion of the Department’s authority or alter the chapter’s purpose or scope. The chapter specifies 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, adult education programs, and to charter schools, and renaissance school projects. The chapter does not regulate clubs, youth programs, private schools, or home schools.

The Department’s objective with the proposed amendments is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq., including LGBTQIA+ individuals.

89. Comment: The commenters objected to the removal of “the public schools of” in the definition of “equitable educational opportunity” at N.J.A.C. 6A:7-1.3 and the replacement of “the public schools” with “all programs within the school district.” The commenters stated that the proposed amendment opens the door for misguided changes and broadens the authority of the Department to apply to all clubs, recreational sports teams, private schools, or home instruction. (33, 94, 98, 269, 349, 464, 465, 467, 481, and

809)

Response: The Department disagrees. The proposed amendments to the definition of “equitable educational opportunity” will not result in the expansion of the Department’s authority or alter the chapter’s purpose or scope. The chapter specifies 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, adult education programs, and to charter schools, and renaissance school projects. The chapter does not regulate clubs, recreational sports teams, private schools, or home instruction.

90. Comment: The commenter stated that the definition of “equity” at N.J.A.C. 6A:7-1.3 should be expanded to explicitly include Black people because this population is the most disproportionately impacted by inequitable policies and practices. (355)

Response: The Department disagrees. Singling out any particular protected category set forth at N.J.S.A. 10:5-1 et seq. in the chapter’s definition of “equity” would be contrary to the chapter’s purpose, which is to ensure that all students regardless of their membership in a protected category, including race, are provided equal access to educational access and programs by district boards of education.

91. Comment: The commenter objected to the use of “equity” throughout N.J.A.C. 6A:7 because it is not in accordance with the Constitution of the United States or the New Jersey State Constitution. The commenter stated that both constitutions utilize “equality.” (46)

Response: The Department disagrees. The usage of “equity” promotes rights, rather than take them away, as suggested by the commenter. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. The Department’s objective in the

proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

92. Comment: The commenter stated that the inclusion of the Commission on Holocaust Education curriculum at N.J.A.C. 6A:7-1.3 and throughout the chapter is the promotion of an agenda that uses the Holocaust and the people killed by the Nazis to indoctrinate children. The commenter also stated that there were no members of the LGBTQIA+ community killed in the Holocaust and that the people who were killed did not believe in the LGBTQIA+ community. (323)

Response: The Department disagrees. N.J.A.C. 6A:7-1.7(b)7 requires district boards of education to ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning 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). These include, but are not limited to, the mandate that requires instruction to middle school and high school students on the political, economic, and social contributions of persons with disabilities and LGBT people, pursuant to N.J.S.A. 18A:35-4.35. The requirement that all legislatively mandated curricular requirements does not add the teaching of LGBTQIA+ issues to the teaching of the Holocaust and the Holocaust/genocide curriculum mandated by N.J.S.A. 18A:35-28. They are separate and distinct curriculums with separate and distinct mandates called for

by the New Jersey Legislature. The commenter’s statements connecting the statutorily mandated inclusion of the Commission on Holocaust Education’s curriculum at N.J.A.C. 6A:7 to an ideology or agenda regarding the LGBTQIA+ community is inaccurate. The proposed amendment at N.J.A.C. 6A:7-1.3 will clarify the purpose of the Commission on Holocaust Education’s curriculum.

93. Comment: The commenter objected to the removal of “national origin” at N.J.A.C.. 6A:7-1.3 and throughout the chapter. The commenter stated that the proposed amendment infers that Native Americans are not of this nation and that it minimizes that segment of the population. (245)
94. Comment: The commenter objected to the proposed amendment at N.J.A.C. 6A:7-1.3 regarding the repeal of the term “national origin” and its use throughout the chapter. (46)
Response to Comments 93 and 94: The Department disagrees. “National origin” is in the chapter’s purpose at N.J.A.C. 6A:7-1.1(a), which aligns with the protected categories in the NJLAD. Therefore, the definition is not necessary.
95. Comment: The commenter stated that the New Jersey State Constitution and the implementing statutes, notably the NJLAD, are the strongest in the nation for prohibiting discrimination and requiring equity in the State’s public schools. The commenter stated that the New Jersey State Constitution assigns, to the New Jersey Legislature, the responsibility to provide a thorough and efficient system of public education for all children in the State between ages five and 18 years. The commenter also stated that the State and school districts are legally obligated to ensure the presence of equal educational opportunity in absence of racism, sexism, and other forms of discrimination. The commenter further stated that students are influenced by their studies and exposure in schools, which influences how they think and act throughout their lives.

The commenter suggested that entire neighborhoods could benefit from the CEPs

far beyond the students and staff directly involved in their implementation. The commenter stated that CEPs must be intentionally designed to create, operate, and sustain education programs, activities, opportunities, and environments that are factually and materially free of bias, because students will not aspire to, value, or seek something they do not know about, have experienced, or believe is possible. The commenter also stated that a CEP should identify what is considered just behavior and include how to measure it and counter what is considered unjust behavior. The commenter further stated that academic achievement is the primary goal of all schools, while equity and justice are the primary purpose of the CEP. The commenter stated that the effectiveness of the CEPs should be demonstrated by evidence of their effectiveness to verify that the students have acquired the knowledge, thoughts, and motivations targeted by the school's CEP.

The commenter stated that the local community pays the taxes that support the school district's CEP and, therefore, are entitled to know the CEP's effectiveness. The commenter also stated that objective rules and data-driven evaluation criteria must be used to verify the CEP's outcomes. The commenter further stated that the objective criteria would generate believable data necessary for public confidence and support. The commenter stated that CEP outcomes based upon feelings, opinions, or test scores should not be accepted as they are hard to explain, difficult to defend, and perceived by many as political speech. The commenter also stated that CEPs should intentionally create and become tangible experiences of equity, justice, and equal opportunity for the students and staff in each school district, but it will not be an easy outcome to achieve. (49)

Response: The Department agrees with the commenter that the protections afforded by the New Jersey State Constitution and NJLAD are among the strongest in the nation. The Department agrees that the New Jersey State Legislature has the responsibility to provide a thorough and efficient system of public education. The Department acknowledges and

recognizes school districts' obligation to ensure the presence of equal educational opportunity in absence of racism, sexism, and other forms of discrimination.

The Department agrees with the commenter that the CEP's effectiveness must be analyzed. N.J.A.C. 6A:7-1.4(c)1, as proposed with amendments, will require the district board of education to assess, prior to developing the CEP, the school district's needs for achieving equity in educational programs based on an analysis of student performance data such as NAEP and State assessment results, preschool-through-grade-12 promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including: attendance 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; and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability.

Furthermore, the proposed amendments at N.J.A.C. 6A:7-1.4(c) will require that each district board of education develop, once every three years, a CEP that must identify and correct all discriminatory and inequitable educational policies, patterns, programs, and practices affecting its facilities, programs, students, and staff. The addition of "measurable and actionable," as proposed at N.J.A.C. 6A:7-1.4(c)3, will specify the types of goals, objectives, timelines, and benchmarks for measuring progress that must be

included in CEPs.

N.J.A.C. 6A:7-1.4(c), as proposed for readoption with amendments, will provide school districts with the necessary information to determine whether a CEP is effective and to ensure that the local community and stakeholders are informed regarding the data and information that is considered by a school district in its analysis, formulation, and implementation of the school district's CEP.

96. Comment: The commenter stated that the use of "equity" will degrade the quality of education for all New Jersey public schools. The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.4(c)1 and the repeals of student performance data and behavioral data from the data that a district board of education must consider prior to the development of a comprehensive equity plan. The commenter objected to the repeal of "equality." The commenter stated that the repeal of "equality," performance data, and behavioral data from the CEP process is unfair, unwise, and will cause harm. The commenter also stated that student performance must be the primary factor in assessing where students are placed. The commenter stated that taking opportunities away in an effort to not discriminate is a form of discrimination against gifted students. (54)

Response: The Department disagrees. The deletion of "performance data" and "behavioral data" at N.J.A.C. 6A:7-1.4(c)1 and the deletion of "equality" throughout the chapter will not cause harm to students. Additionally, nothing in the CEP's development process causes a reduction in the availability of opportunities for student achievement, including gifted and talented students.

N.J.A.C. 6A:7-1.4(c)1, as proposed for amendment, will require the district board of education to assess, prior to developing the CEP, the school district's needs for achieving equity in educational programs based on an analysis of student performance data such as NAEP and State assessment results, preschool-through-grade-12

promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including: attendance data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs; discipline, graduation rate, and postsecondary enrolment; student, staff, and community member interviews; enrollment and scoring in advanced classes; and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability. The proposed amendments also will provide school districts with the necessary information to determine whether a CEP is effective and ensure that the local community and stakeholders are informed of the data.

Furthermore, the proposed amendments at N.J.A.C. 6A:7-1.4(c) will require that each district board of education develop, once every three years, a CEP that must identify and correct all discriminatory and inequitable educational policies, patterns, programs, and practices affecting its facilities, programs, students, and staff.

97. Comment: The commenter supported the requirement at N.J.A.C. 6A:7-1.4 for school districts to create CEPs. The commenter stated that it is generally understood that CEPs are effective in remediating inequities in public schools, but also questioned the CEPs' effectiveness. The commenter suggested the Department and the executive county superintendents develop a process for tracking, over time, the goals and outcomes set by school districts. The commenter also suggested that the data generated by this process would identify many pockets of success throughout the State. The commenter further

suggested that the Department, at the State or county office level, could then amplify and share school districts' successes so they can be replicated elsewhere. The commenter stated that the process of developing a CEP is time consuming and it would benefit all students and educators if the Department could design a process and mechanism for leveraging the data collected and utilize the data to create better outcomes. (9)

Response: The Department agrees with the commenter that the CEP effectiveness must be analyzed. N.J.A.C. 6A:7-1.4(c)1, as proposed with amendments, will require the district board of education to assess, prior to developing the CEP, the school district's needs for achieving equity in educational programs based on an analysis of student performance data such as NAEP and State assessment results, preschool-through-grade-12 promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including attendance data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs; discipline, graduation rate, and postsecondary enrolment; student, staff, and community member interviews; enrollment and scoring in advanced classes; and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability.

Furthermore, the proposed amendments at N.J.A.C. 6A:7-1.4(c) will require that each district board of education develop, once every three years, a CEP that must identify and correct all discriminatory and inequitable educational policies, patterns, programs,

and practices affecting its facilities, programs, students, and staff. The addition of “measurable and actionable,” as proposed at N.J.A.C. 6A:7-1.4(c)3, will specify the types of goals, objectives, timelines, and benchmarks for measuring progress that must be included in CEPs.

N.J.A.C. 6A:7-1.4(c), as proposed for readoption with amendments and repeals, will provide school districts with the necessary information to determine whether a CEP is effective and to ensure that the local community and stakeholders are informed regarding the data and information that is considered by a school district in its analysis, formulation, and implementation of the school district’s CEP.

98. Comment: The commenter questioned whether State Board members analyzed the CEPs from the school districts in which they live, as suggested by State Board Member Ricca at the December 2022 meeting. The commenter stated that an examination of a sample of CEPs would reveal that N.J.A.C. 6A:7 needs to start requiring school districts to analyze rosters and reports for inequities according to student subgroups and growth of underrepresented groups. The commenter also stated that explicit references to the school district’s analysis of its CEP and submission of the data to the Department is necessary.

(27)

Response: The Department declines to respond to the commenter’s question regarding whether State Board members analyzed CEPs as it is not relevant to the current rulemaking. The Department disagrees with the commenter’s statements that it would be evident from samplings of CEPs that amendments related to the analysis of rosters and reports for inequities are necessary. A district board of education is responsible for compliance with the CEP. The proposed amendment at N.J.A.C. 6A:7-1.4(d) requires each district board of education to submit to the Department at the end of each school year a statement of assurance regarding achieving the CEP’s objectives. Proposed new

N.J.A.C. 6A:7-1.4(d)4 requires the chief school administrator to certify in the statement of assurance that the school district has evaluated the CEP for effectiveness and has submitted a revised CEP to the executive county superintendent, if necessary. The existing rules require school districts to evaluate the effectiveness of their CEPs and modify them, as necessary.

99. Comment: The commenter suggested N.J.A.C. 6A:7 should emphasize analyzing additional data points and their impact on opportunity in the same way the Department has emphasized analyzing test scores and achievement gaps. The commenter referenced two State Board members' comments made during first discussion that support this suggestion: Dr. Joseph Ricca stated that good ideas without good monitoring not only means nothing but can cause bad outcomes, while Dr. Nedd James Johnson stated that additional data points are necessary to make decisions based on fact. The commenter suggested that if a school district truly wants to assess whether there are inequities, explicit references need to be made to the analysis and submission of the data as evidenced in the school district's CEP. (355)

Response: Please see the Response for Comment 97.

100. Comment: The commenter stated that the chapter, though worded as a "best-in-class model," is just a checklist exercise for school districts to complete with almost no accountability to students and their parents. The commenter provided examples of how inequity impacts parents and students in the public-school system. The commenter stated that the examples point to a much simpler definition of what equity should look like in New Jersey, that managing for equity ensures that children are valued as individuals, and that children are provided every possible opportunity and resource to learn, grow, and thrive. The commenter suggested that the examples provided should have been reported, investigated, and resolved in a timely manner by the Department, but this did not happen.

The commenter stated that the New Jersey Administrative Code revolves around the submission of a three-year CEP, which the commenter stated is a checklist exercise and statements of assurances prepared by school districts and submitted to the county office of education. The commenter asked whether anyone reads CEPs or cares about their content and whether they are effectively implemented. The commenter cited the Harassment, Intimidation, and Bullying (HIB) laws, policies, and regulations that articulate clearly defined reporting and accountability system that ensures administrators and district board of education members take seriously every incident of HIB.

The commenter stated that the Department should adopt a similar model for equity in education. The commenter suggested the following as essential components that must be included in an accountability system to ensure equity in education for all students:

- Every school must have an equity specialist responsible for reporting, investigating, and resolving issues related to equity and equality;
- Every school district must have a director assigned to supervise specialists whose names should be published on websites, social media, and other school publications;
- All incidents must be reported to the district board of education on a monthly basis;
- All school districts should report data at regular public meetings of the district board of education; and
- All school districts should hold public hearings twice a year to review data and reports and seek public input on this information. (356)

Response: The Department declines to adopt the commenter's suggested changes.

N.J.A.C. 6A:7, as proposed for readoption with amendments, has the requisite level of

accountability to the Department and the public, while allowing school districts to address the school district's individual needs related to equity in education. The commenter suggested modeling the CEP process after the legislatively mandated HIB process. However, the CEP process has a different purpose than the HIB statute and would not conform in the same manner to the same process. The Anti-Bullying Bill of Rights Act (ABR), N.J.S.A. 18A:37-13 et seq., strengthened the standards and procedures for preventing, reporting, investigating, and responding to HIB incidents toward students that occur on school grounds and off school grounds under specified circumstances. The law was adopted, in part, in response to research on the incidence, prevalence and effects of HIB that has emerged since the adoption of the original HIB law in 2002. N.J.A.C. 6A:16-7.7 sets forth the policies and procedures that must be adopted by school districts to address specific instances of HIB committed against individual students and groups. Conversely, the purpose of N.J.A.C. 6A:7 is to ensure that students regardless of their membership in the protected categories listed at N.J.A.C. 6A:7 are provided equitable access to education. N.J.A.C. 6A:7 is not intended to provide a single method or model to deal with individual instances of inequity, inequality, and discrimination, but rather to address the problem on a systemic level and to set forth the standards for school districts to provide educational activities and programs for all students pursuant to State and Federal law and the New Jersey State Constitution.

N.J.A.C. 6A:7-1.4(c)1, as proposed with amendments, will require the district board of education to assess, prior to developing the CEP, the school district's needs for achieving equity in educational programs based on an analysis of student performance data such as NAEP and State assessment results, preschool-through-grade-12 promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over

representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including: attendance data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs; discipline, graduation rate, and postsecondary enrolment; student, staff, and community member interviews; enrollment and scoring in advanced classes; and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability.

Furthermore, the proposed amendments at N.J.A.C. 6A:7-1.4(c) will require that each district board of education develop, once every three years, a CEP that must identify and correct all discriminatory and inequitable educational policies, patterns, programs, and practices affecting its facilities, programs, students, and staff. The addition of "measurable and actionable," as proposed at N.J.A.C. 6A:7-1.4(c)3, will specify the types of goals, objectives, timelines, and benchmarks for measuring progress that must be included in CEPs.

N.J.A.C. 6A:7-1.4(c), as proposed for readoption with amendments, will provide school districts with the necessary information to determine whether a CEP is effective and to ensure that the local community and stakeholders are informed regarding the data and information that is considered by a school district in its analysis, formulation, and implementation of the school district's CEP.

101. Comment: The commenter stated that CEPs could be an important part of improving the quality of education for all children in New Jersey, but not in the CEP's present form. The commenter also stated that improving the quality of education for all children

requires a reporting process that is transparent, opportunity focused, and centered on high-leverage information. The commenter further stated that transparency means that school districts should provide information to the public in usable format, and to that end:

- All annual equity reports should be presented at local town halls and any reports should be publicly available prior to the meeting;
- All equity reports should be placed on a central website. The Department should direct attention to reports considered exemplary;
- School districts making the most progress in supporting traditionally underserved groups should be publicly acknowledged;
- To the degree feasible, all data should be presented by subgroup (race, ethnicity, socioeconomic status, gender, disability status, language learning status, immigration status, and previous incarceration);
- To the degree feasible, all data should be presented in the context of “five years” worth of trend data;
- To the degree feasible, local data should be presented so that it can be easily compared to data from the State, nearby school districts, and demographically similar school districts; and
- New Jersey should invest in the development of dashboards to make key data more readily accessible.

The commenter stated that the Department and the public need to know a great deal more about high-leverage data. The commenter also stated that nearly all the information exists somewhere, but it needs to be put into a format to tell useful stories. The commenter stated that though school districts need freedom to use their own metrics, it would be better if all LEAs were required to report the following:

- The percentage of students entering kindergarten within two years of pre-school;
- The distribution of subgroups across academic track and “data on movement across track;”
- The likelihood of a student being taught at least once by a teacher of the same race or ethnicity;
- Percentage of students assigned to special education by subgroup;
- Percentage of students assigned to inexperienced teachers by subgroup;
- Percentage of middle school teachers with a middle school mathematics endorsement;
- Teacher absenteeism and turnover;
- Access to mental health professionals;
- Access to rigorous coursework; and
- Access to the courses that can lead to careers in STEM or other high-demand fields.

The commenter stated that, as equity data becomes more central to education planning, there will be a motive to falsify data and the Department should develop stiff penalties for people who falsify data in school reports. The commenter urged the Department and the State Board to consider creating a longitudinal database of de-identified student data that will support studies of program effectiveness, school performance, and resource disparities. (357)

Response: The Department declines to adopt the commenter’s suggestion. N.J.A.C. 6A:7, as proposed readoption with amendments and repeals, has the requisite level of accountability to the Department and the public, while allowing for school districts to address their individual needs for equity in education. The Department appreciates the

comment regarding the requirement to use and report particular data and agrees that much of the cited data is already available to the public and can be used by school districts when developing the needs assessment. The Department does not have a data dashboard but appreciates the suggestion.

The Department has proposed measures to address accountability regarding the CEP. N.J.A.C. 6A:7-1.4(c)1, as proposed with amendments, will require the district board of education to assess, prior to developing the CEP, the school district's needs for achieving equity in educational programs based on an analysis of student performance data such as NAEP and State assessment results, preschool-through-grade-12 promotion/retention data and completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data. The Department also proposes, at N.J.A.C. 6A:7-1.4(c)1, the types of data that can be considered as part of the school district's analysis, including: attendance data; the Federally mandated Civil Rights Data Collection; student access to educational activities and programs; discipline, graduation rate, and postsecondary enrolment; student, staff, and community member interviews; enrollment and scoring in advanced classes; and teacher workforce diversity. The proposed amendments more specifically identify data, including performance data, that may be analyzed prior to developing the CEP and ensure interoperability.

The Department agrees that sharing relative data with the community is a best practice but declines to regulate it as suggested. N.J.A.C. 6A:7-1.4(b) requires the district board of education to inform the school community of its policies in a manner including, but not limited to, the school district's customary methods of information dissemination.

Furthermore, the proposed amendment at N.J.A.C. 6A:7-1.4(c) will require each district board of education to develop, once every three years, a CEP that must identify and correct all discriminatory and inequitable educational policies, patterns, programs, and practices affecting its facilities, programs, students, and staff. N.J.A.C. 6A:7-1.4(c)3, as proposed for amendment, includes “measurable and actionable,” which specifies the types of goals, objectives, timelines, and benchmarks for measuring progress that must be included in CEPs. N.J.A.C. 6A:7-1.4(c), as proposed for amendment, will provide the school districts with the necessary information to determine whether a CEP is effective and ensure that the school district community and stakeholders are informed of the data.

While the Department does not impose penalties when school districts report false data, school districts are required to take specific corrective actions when this occurs, depending on the identified data set.

102. Comment: The commenter stated that CEPs are little more than paper-based accountability, lack substance, and are unlikely to support dramatic change in school practice that children in public schools need. The commenter also stated that the CEPs are essentially a checklist of requirements that can be satisfied by simply listing multiple policies that are required by New Jersey statute. The commenter further stated that evidence of CEP implementation is lacking and that the statement of assurance adopted by district boards of education and submitted to the executive county superintendent has little value and that it is just another check mark. The commenter also stated that the CEP process is a fake accountability system and that communities have little engagement in the process. The commenter requested an overhaul of the CEP process and the requirements at N.J.A.C. 6A:7.

The commenter suggested using the 2023-2024 school year to study, organize, and develop a CEP process that incorporates best practices for closing opportunity gaps

and has richer efforts to implement requirements at N.J.A.C. 6A:7. The commenter also suggested the expansion of the Department's role beyond accountability to include the provision of support and funding for a Statewide system of support. The commenter further suggested that the Department consider how to partner with New Jersey's public colleges and universities in the planning and implementation of a Statewide support system. The commenter also suggested an expansion of opportunities for meaningful engagement of students, teachers, schools, school district administration, district board of education members, parents, nonprofit organization, business, industry, and other stakeholders in the design of strategies to address opportunity gaps that exist across urban, suburban, and rural school districts. (357)

Response: The Department disagrees. District boards of education are responsible for complying with the CEPs. Existing N.J.A.C. 6A:7-1.4(d) requires each district board of education to submit to the Department, at the end of each school year, a statement of assurance regarding the achievement of the CEP's objectives. Proposed new N.J.A.C. 6A:7-1.4(d)4 will require each school district's chief school administrator to certify in the statement of assurance that the school district has evaluated the CEP for effectiveness and has submitted a revised CEP to the executive county superintendent, if necessary. Existing N.J.A.C. 6A:7-1.4(d) requires school districts to evaluate the effectiveness of their CEPs and modify them, as necessary. The Department contends that the current CEP process ensures that school districts use their own data to determine equity needs of the school district and create a CEP for areas that are not compliant.

The Department appreciates the commenter's suggestions of expanding the Department's role beyond accountability to one of support. The Department currently provides ongoing support to school districts during the needs assessment process and development of the CEP through the county offices of education. The Department also

supports the expansion of meaningful stakeholder engagement through the CEP development process by encouraging district boards of education to ensure that all stakeholder groups are represented and provide feedback during the development of the needs assessment and the CEP. School districts are responsible for ensuring all appropriate stakeholders are involved in the CEP development process.

103. Comment: The commenter stated that when school districts speak about educational equity and equality, they should start with student voices. The commenter stated that N.J.A.C. 6A:7 should include a space for students to be part of the evaluation process and part of the team developing the CEP. The commenter also stated that the affirmative action officer should be required to hold public hearings with the community for input during the needs assessment phase of the CEP development process. The commenter further stated that making public the needs of the school district and the data will ensure that the CEP will be assessed, addressed, and re-evaluated every three years. The commenter also stated that school districts need to be held accountable and transparent in CEPs and that explicit guidelines on how school districts inform students and parents about the CEP are needed. (355)

Response: The Department agrees with the commenter that students have a critical role in a CEP's development. A school district is responsible for the composition of the affirmative action team, which develops the CEP. Proposed N.J.A.C. 6A:7-1.5(a)4i does not prohibit a school district or an affirmative action officer from involving students in the CEP's development. The affirmative action officer is the only required member of the affirmative action team. Additional team members must align with proposed N.J.A.C. 6A:7-1.5(a)4, which states that the affirmative action team must include, to the extent possible, members who represent the diversity of the school district's student population. The proposed subparagraph will ensure members of the affirmative action team represent

the diversity of individuals from protected classes listed at N.J.A.C. 6A:7-1.1(a).

The Department also agrees that sharing the needs assessment and relative data with the community is a best practice but declines to regulate how a school district informs the school community about the CEP. N.J.A.C. 6A:7-1.4(b) requires the district board of education to inform the school community of its policies in a manner including, but not limited to, the school district's customary methods of information dissemination. The Department does not regulate the manner in which a school district shares and disseminates information to the community.

104. Comment: The commenter objected to the amendments at N.J.A.C. 6A:7-1.4 because they do not provide monitoring procedures to achieve educational opportunity. The commenter suggested that the Department provide technical assistance to school districts in developing equity-focused monitoring systems outside testing. The commenter stated that the removal of language related to the approval of CEPs represents a lack of capacity to monitor the plans. (27)

Response: The Department disagrees. The proposed amendment at N.J.A.C. 6A:7-1.4(c) will require that each district board of education develop, once every three years, a CEP that identifies and corrects all discriminatory and inequitable educational patterns, programs, and practices affecting its facilities, programs, and students. The proposed amendment at N.J.A.C. 6A:7-1.4(c)3 adds “measurable and actionable” to specify the types of goals, objectives, timelines, and benchmarks for measuring progress that must be included in CEPs.

District boards of education are responsible for complying with the CEPs. Existing N.J.A.C. 6A:7-1.4(d) requires each district board of education to submit to the Department, at the end of each school year, a statement of assurance regarding the achievement of the CEP’s objectives. Proposed new N.J.A.C. 6A:7-1.4(d)4 will require

each school district's chief school administrator to certify in the statement of assurance that the school district has evaluated the CEP for effectiveness and has submitted a revised CEP to the executive county superintendent, if necessary. Existing N.J.A.C. 6A:7-1.4(d) requires school districts to evaluate the effectiveness of their CEPs and modify them, as necessary.

105. Comment: The commenter supported the proposed amendments at N.J.A.C. 6A:7-1.4(c) regarding a school district's CEP being submitted to the county offices of education rather than to the Department. The commenter stated that there may be increased oversight at the county level. The commenter also stated that the commenter is currently enrolled in an internship position related to educational leadership coursework at a State university. As part of that internship, the commenter indicated one of the projects is to obtain a copy of a school district's CEP, analyze it, and perform an audit using the Mid-Atlantic Equity Consortium (MAEC) Criteria for an Equitable School. The commenter stated that many of the commenter's classmates were unable to locate the documents from their respective schools and many principals were unaware of what a CEP was and where to find the school district's CEP. The commenter requested that school districts be required to post CEPs on their websites and to address the CEP holistically and not just as a performative exercise. (35)

Response: The Department thanks the commenter for their support. The Department does not require school districts to post CEPs on their websites because school districts are not required to maintain a website and establishing the requirement would lead to inconsistent practices throughout the State. Therefore, the Department declines the commenter's suggested change.

106. Comment: The commenter suggested the Department not adopt N.J.A.C. 6A:7-1.4 as amended and continue to require school districts to submit their CEPs to both the

Department and county offices of education. The commenter stated that the Department should be attempting to strengthen the rules. The commenter also stated that removal of the approval component weakens accountability efforts. The commenter asked what the purpose of adding “measurable and actionable” to the CEP is if the Department is not monitoring the CEP’s implementation. The commenter suggested that N.J.A.C. 6A:7-1.4(c)4ii be amended to require districts to post CEPs on their websites. (27)

Response: The Department disagrees. At existing N.J.A.C. 6A:7-1.4(c), the school district submits the CEP to the Department and the executive county superintendent. The Department’s proposed amendment will not change the process and, instead, will eliminate the duplicative submission step. The executive county superintendent is a Department employee who operates the county office of education, which serves as the focal point of general support, oversight, and routine communications between school districts in the county and the Department’s central offices. District boards of education are responsible for complying with the CEPs. Existing N.J.A.C. 6A:7-1.4(d) requires each district board of education to submit to the Department, at the end of each school year, a statement of assurance regarding the achievement of the CEP’s objectives.

Proposed new N.J.A.C. 6A:7-1.4(d)4 will require each school district’s chief school administrator to certify in the statement of assurance that the school district has evaluated the CEP for effectiveness and has submitted a revised CEP to the executive county superintendent, if necessary. Existing N.J.A.C. 6A:7-1.4(d) requires school districts to evaluate the effectiveness of their CEPs and modify them, as necessary.

N.J.A.C. 6A:7-1.4(c)4 requires the district board of education to submit the CEP to the executive county superintendent. The plan is made available to the public at a district board of education meeting, during which the plan is discussed and approved for submission. The Department does not require school districts to post CEPs on their

websites because school districts are not required to maintain a website and establishing the requirement would lead to inconsistent practices throughout the State. Therefore, the Department declines the commenter's suggested change.

107. Comment: The commenter requested that HIB data be utilized in the analysis of all equity frameworks. (363)

Response: School districts are allowed to include additional data, including HIB data, in their equity analysis based upon local needs. The proposed amendments at N.J.A.C. 6A:7-1.4(c)1 include a nonexclusive list of the types of data that can be considered as part of the school district's analysis.

108. Comment: The commenter stated that it is society's collective responsibility to address the learning loss and equity needs of students in the aftermath of the COVID-19 pandemic. The commenter requested that all regulations and policies be made publicly available and translated into the top languages represented in school districts. The commenter also requested that the Department require school districts to make an effort to inform the school community about the school district's work to address equity needs. The commenter further requested that the Department require school districts to have a reporting requirement in the event a student or parent has trouble accessing their equity needs in the school district. The commenter suggested that there should be an office within the New Jersey Attorney General's Office and the New Jersey Division of Civil Rights so that the Department is not in charge of policing itself.

The commenter also suggested that equity strategies include funded efforts to support Black and Latino teachers to bridge the racial wealth gap. The commenter further suggested that concerted efforts should be made to have learning evaluations and special needs assessments for multilingual learners (formerly referred to as English language learners) that are free from bias surrounding language and accents. The commenter stated

that doing so would provide students with access to learning assessments on a timely basis and would act as a form of early intervention, as opposed to supports after potential grade retention. (359)

Response: The Department agrees that it is society's collective responsibility to address learning loss and equity needs of students after the COVID-19 pandemic. The Department is engaged in a number of strategies to support school districts with addressing learning loss due to the COVID-19 pandemic, including the development of resources and opportunities for community members to be involved through the New Jersey Partnership for Student Success, which provides grant opportunities to school districts to enhance learning acceleration, and through support from the county offices of education.

Existing N.J.A.C. 6A:7-1.4(b) requires that district boards of education inform the school community of its educational equity policies in a manner including, but not limited to, the school district's customary methods of information dissemination. Although N.J.A.C. 6A:7 does not mandate a reporting mechanism, there is nothing to prohibit a school district from implementing such policies and practices if a student or parent is unable to address the student's equity needs.

The recruitment and funding of educators to address a racial wealth gap is outside of the scope of this rulemaking. Issues involving special education and Multilingual learners (formerly called English language learners) are addressed at N.J.A.C. 6A:14 and 15, respectively, and are also outside of the scope of this rulemaking.

109. Comment: The commenter stated that proposed N.J.A.C. 6A:7-1.5(a)3, which will allow a school district's Title IX coordinator to also serve as the affirmative action officer, is overreach. (111)

Response: The Department disagrees. N.J.A.C. 6A:7-1.5(a)3, as proposed for

amendment, states that a school district's affirmative action officer may also serve as the school district's Title IX coordinator but does not require the affirmative action officer to fulfill both roles. Pursuant to Federal law, a recipient of Federal funds must designate at least one employee to serve as its Title IX coordinator to ensure compliance with Title IX of the Education Amendments of 1972, which prohibits sex-based discrimination in any schools or education programs that receives funds from the Federal government. The proposed amendment is not a requirement but allows a school district to have the affirmative action officer serve as the Title IX coordinator or have separate staff serve in these roles.

110. Comment: The commenters objected to the deletion of "arising from prejudice" in the reference to inequities at N.J.A.C. 6A:7-1.6(a). The commenters stated that all inequities and their causes must be addressed, but the deletion of "prejudice" will provide for the creation of a shadow policy to address critical work. (5, 6, 7, 8, 23, and 30)
111. Comment: The commenter objected to the deletion of "arising from prejudice" at N.J.A.C. 6A:7-1.6(a). The commenter stated that a broad segment of the population, including educators, is in denial of the profound impact of racism on every aspect daily life in this country. The commenter stated that educators and school personnel will not use "prejudice" unless required. (10)
112. Comment: The commenter objected to the deletion of "arising from prejudice" at N.J.A.C. 6A:7-1.6(a). The commenter questioned why the Department is not explicitly stating that prejudice is a main driver of inequities and the reason why inequities have occurred in this country and continue to occur. (11)
113. Comment: The commenter objected to the deletion of "prejudice" at N.J.A.C. 6A:7-1.6(a) and "racial" at N.J.A.C. 6A:7-1.7(a)2. The commenter expressed alarm by the lack of intentionally addressing the issue of "black hate," which the commenter asserted is at the

root of all the disproportionality issues in schools. The commenter stated that it is improper to downplay the role of prejudices in perpetuating inequalities by eliminating “prejudice” and “racial” from the chapter. (27)

Response to Comments 110, 111, 112, and 113: The Department disagrees. There are issues associated with achievement gaps and other inequities that do not specifically arise from prejudice but still are associated with students’ membership in the protected classes. By deleting “arising from prejudice,” the chapter, as proposed for readoption with amendments and repeals, will provide broader protections, strengthen professional development, and address inequities, regardless of the cause.

114. Comment: The commenter stated that the removal of “arising from prejudice” in reference to inequities at N.J.A.C. 6A:7-1.6(a) and replacing “racial balance” with “representative balance” at N.J.A.C. 6A:7-1.7(a)2 underplay how race is a critical factor that impacts the educational system at all levels, including students. (36)

Response: The Department disagrees. There are issues associated with achievement gaps and other inequities that do not specifically arise from prejudice but still are associated with students’ membership in the protected classes. By deleting “arising from prejudice,” the chapter, as proposed for readoption with amendments and repeals, will provide broader protections, strengthen professional development, and address inequities, regardless of the cause.

The Department proposes to replace “racial balance” with “representative balance” at N.J.A.C. 6A:7-1.7(a)2 because “racial balance” addresses only one of the protected categories, specifically race. “Representative balance” acknowledges the existence of the other protected classes and that the goal is to have minority representation within the student population that approximates the school district’s

overall minority representation. The proposed amendment provides greater protections to all minority students and to students within all of the protected classes.

115. Comment: The commenter objected to the proposed amendment at N.J.A.C. 6A:7-1.6(a)1, which as proposed for amendment, requires professional development training be differentiated based on staff position type and upon the analysis of the data conducted pursuant to the CEP's development. The commenter stated that professional development should be focused on academic excellence, not equity. (54)

Response: The Department disagrees. Nothing at N.J.A.C. 6A:7 overrides the requirements at N.J.A.C. 6A:9C, which governs the professional development of educators. N.J.A.C. 6A:9C also sets forth the requirements for a system of high-quality professional development that continuously serves educator's professional learning and practice in support of positive learning outcomes for all New Jersey students. N.J.A.C. 6A:7-1.6(a) requires each district board of education to provide, on a continuing basis, professional development training for all school personnel to identify and resolve problems associated with 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).

116. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7-1.6(a)2, which will require district boards of education to ensure that parents and other community members are aware of professional development training provided to school district personnel regarding topics around equity. (33, 53, 55, 64, 67, 68, 70, 82, 88, 98, 101, 116, 119, 127, 150, 151, 165, 168, 171, 179, 187, 194, 198, 199, 220, 254, 271, 273, 286, 290, 293, 301, 309, 324, 362, 391, 401, 412, 413, 429 through 459, 479, 480, and 494)

117. Comment: The commenter requested that existing N.J.A.C. 6A:7-1.6(a)2, which requires district boards of education to invite parents and other community members to participate

in the professional development training, be maintained. The commenter stated that the proposed amendments will eliminate parental awareness and participation. (53)

Response to Comments 116 and 117: The Department disagrees. The existing rule requires a district board of education to invite the parents and guardians to attend the actual training of school district personnel, which may be inappropriate and disruptive to the professional development. The proposed amendments at N.J.A.C. 6A:7-1.6(a)2 will ensure that parents and community members are aware of professional development training provided to school district personnel regarding topics around equity in an appropriate format separate from the professional development training. Involving parents and community members in the professional development opportunities afforded to school district personnel is not optimal and considered outside of best practices.

118. Comment: The commenter requested that existing N.J.A.C. 6A:7-1.6(a)2 be maintained because inviting parents to participate in professional development training gives parents the ability to accurately assess school policies. (165)

Response: The Department disagrees. The existing rule requires a district board of education to invite the parents and guardians to attend the actual training of school district personnel, which may be inappropriate and disruptive to the professional development. The proposed amendments at N.J.A.C. 6A:7-1.6(a)2 will ensure that parents and community members are aware of professional development training provided to school district personnel regarding topics around equity in an appropriate format separate from the professional development training. Involving parents and community members in the professional development opportunities afforded to school district personnel is not optimal and considered outside of best practices. Parents do not need to attend and participate in professional development training to be aware of, and accurately assess, school policies because parents have the ability to attend and

participate in open public meetings of the district board of education when such policies are discussed and possibly voted on.

119. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7-1.6(a)2 because they will remove transparency and accountability to parents regarding the materials being taught to students, which, the commenters stated the State is not authorized to do. The commenters also stated that the school districts are not permitted to teach children against parents' wishes. (94, 269, 464, 465, 467, and 481)

Response: The Department disagrees. The existing rule requires a district board of education to invite the parents and guardians to attend the actual training of school district personnel, which may be inappropriate and disruptive to the professional development. The proposed amendments at N.J.A.C. 6A:7-1.6(a)2 will ensure that parents and community members are aware of professional development training provided to school district personnel regarding topics around equity in an appropriate format separate from the professional development training. Involving parents and community members in the professional development opportunities afforded to school district personnel is not optimal and considered outside of best practices. Parents have the ability to attend district board of education meetings and provide input regarding the materials being taught in the schools that their children attend. The proposed amendments at N.J.A.C. 6A:7-1.6(a)2 do not change this fact.

120. Comment: The commenter questioned the proposed amendment at N.J.A.C. 6A:7-1.6(a)3 that reduces -- from one year to 90 days -- the time school districts have to provide all new staff with professional development on educational equity issues. The commenter also questioned the proposed amendment at recodified N.J.A.C. 6A:7-1.8(e) that reduces the time school districts have to implement CEPs from 180 days to 60 days. The commenter stated that the revised timelines will dramatically increase the administrative

oversight burden on school districts and that the same staff responsible for executing these requirements should be focused on ensuring academic excellence and not the topics covered at N.J.A.C. 6A:7. (33)

Response: The Department proposed the reduction of timelines at both N.J.A.C. 6A:7-1.6(a)3 and 1.8(e) to ensure that a long period of time does not elapse while inequitable practices may be administered within a school district. The Department disagrees that the proposed amendments will drastically increase the administrative oversight burden on school districts because it is time spent ensuring that academic excellence for all students is achieved.

121. Comment: The commenter objected to the proposed amendment at N.J.A.C. 6A:7-1.7(d) to repeal the reference to athletics programs regulated by the New Jersey State Interscholastic Athletic Association (NJSIAA) and the repeal of N.J.A.C. 6A:7-1.8. The commenter stated that N.J.S.A. 18A:4-1 empowers the State Board with general supervisory authority and control of public education. The commenter also stated that the State Board would be abdicating its responsibility to effectively supervise and control public education, as codified at Title 18A of the New Jersey Statutes, if any language related to the supervision of any aspect of education is removed from Title 6A of the New Jersey Administrative Code. (365)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, proposal, and adoption of the

Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

Pursuant to N.J.S.A. 18A:11-3, district boards of education may join with a voluntary organization that regulates the conduct of student activities, such as the NJSIAA, which governs high school athletic competition. The conduct of the associations and their rules and regulations are deemed the policy and rules and regulations of member district boards of education and are generally enforced and governed by the association's internal procedures. The Commissioner's authority to regulate an association's constitution, by-laws, or rules and regulations is limited to the disapproval of amendments thereto made within 20 days of their adoption, pursuant to N.J.S.A. 18A:11-5. Only appeals from the decisions of the associations may be brought before the Commissioner, pursuant to N.J.S.A. 18A:11-3. As such, the repeal of the reference to NJSIAA at N.J.A.C. 6A:7-1.7(d) is not an abdication of authority, as the ability to regulate the NJSIAA is limited by statute to the approval of its operating rules and hearing appeals from the decisions of the NJSIAA.

122. Comment: The commenter stated that the purpose of N.J.A.C. 6A:7-1.7(a) is to ensure that, among other things, all students have equal and barrier-free access to all school and classroom facilities and includes equivalent and timely instruction for students who may require home instruction without prejudice or penalty for students who have long-term medical conditions requiring this type of instruction.

The commenter stated that implementation has fallen short of the expectations outlined at N.J.A.C. 6A:7-1.7(a) based upon the commenter's advocacy work and the cases that the commenter brings on behalf of students and families. The commenter also stated that many of the cases involve the failure of implementation of individualized education program (IEP) or 504 plan services because schools did not have appropriately

certified staff to implement the services or students were offered inappropriate placement due to staffing or the school environment. The commenter further stated that appropriate academic and behavioral supports are not being provided in cases involving students with disabilities at the high school level. The commenter stated that many high school students disenroll rather than continue in programs that they perceive as not providing them with individualized instruction in a safe and non-punitive setting. The commenter concluded that, although the Department clearly intends to provide all students with an equitable education to ensure academic achievement, many families that the commenter represents and advocates for are not experiencing or receiving educational opportunities or services afforded to non-disabled peers. (361)

Response: The Department disagrees that N.J.A.C. 6A:7-1.7(a) captures equivalent and timely instruction for students with long-term medical conditions requiring home instruction. This section requires each district board of education to provide all students with equal and bias-free access to all school facilities, courses, programs, activities, and services. The section also requires district boards of education to ensure the school district's curriculum and instruction are aligned to NJSL and address the elimination of discrimination by narrowing the achievement gap, providing equity in educational programs, and providing opportunities for students to interact positively with others. The section further requires district boards of education to ensure all students have access to adequate and appropriate counseling services and equitable and co-educational physical education and athletic programs. Therefore, the commenter's statements are outside the scope of this rulemaking.

123. Comment: The commenter objected to N.J.A.C. 6A:7-1.7(a), which requires school districts to provide all students equal and bias-free access to all facilities. The commenter stated that the proposed amendment is ambiguous and is a slippery slope. (98)

Response: The Department disagrees. The Department proposes to replace “equal” with “equitable” at N.J.A.C. 6A:7-1.7(a), which means that all protected categories of students have access to school facilities in a manner that meets their needs and not merely access to the same quality or number of facilities.

124. Comment: The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.7(a), including the replacement of “equal” with “equitable.” The commenter stated that equity holds back students who are academically gifted and talented while also frustrating students who learn more slowly by forcing them to keep up, instead of allowing them adequate time to learn a concept. (53 and 165)

Response: The Department disagrees. Equality” means sameness, uniformity, and equivalence. “Equity,” as proposed for amendment, means 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. The proposed amendments support differentiated instruction and formative assessments aligned to the NJSL. The proposed amendments do not hold back students who are academically gifted and/or talented or force students who learn more slowly to keep up. The result of the proposed amendment will be the opposite of the outcome suggested by the commenter.

125. Comment: The commenter objected to replacing “racial balance” with “representative balance” at N.J.A.C. 6A:7-1.7(a)2. The commenter stated that the proposed amendment effectively neutralizes the hundreds of years of segregation and affirmative action for the majority population at the expense of, and detriment to, the minority. The commenter stated that the proposed amendment is a step backward and denies recognition of the social underpinnings for widespread inequity and inequality. (10)

Response: The Department disagrees. “Racial balance” addresses only one of the protected categories, specifically race. “Representative balance” acknowledges the existence of the other protected classes and that the goal is to have minority representation within the student population that approximates the school district’s overall minority representation. The proposed amendment will provide greater protections to all minority students and those within all of the protected classes and will not undermine previous actions to remedy inequity and inequality.

126. Comment: The commenters objected to replacing “racial balance” with “representative balance” at N.J.A.C. 6A:7-1.7(a)2 because it compromises efforts to address the disproportionality issues caused by “the weaponization of Black skin.” (5, 6, 7, 8, 23, and 30)

Response: The Department disagrees. “Racial balance” addresses only one of the protected categories, specifically race. “Representative balance” acknowledges the existence of the other protected classes and that the goal is to have minority representation within the student population that approximates the school district’s overall minority representation. The proposed amendment will provide greater protections to all minority students and to students within all of the protected classes.

127. Comment: The commenter objected to N.J.A.C. 6A:7-1.7(a)2 and (b)3, as proposed for amendment. The commenter stated that requiring representation of every type of student in all classes, including gifted and talented, accelerated, and advanced, is in opposition to the purpose of the classes. The commenter stated that if an entire class is held back by one student who is there to fill the requirement, it will be detrimental to the entire class and also to the one student. (131)

Response: The Department disagrees. As proposed, N.J.A.C. 6A:7-1.7(a)2 requires each district board of education to provide 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). To achieve this, the district board of education is required to attain student minority representation that approximates the school district's overall minority population. However, exact apportionment is not required, and the goal is a reasonable plan to achieve a representative balance that is feasible and consistent with sound educational values and procedures.

As proposed, N.J.A.C. 6A:7-1.7(b)3 requires that each district board of education ensures that the school's curriculum and instruction are aligned to the NJSLS and that the curriculum and instruction addresses the elimination of discrimination by narrowing achievement and opportunity gaps, providing equity in education activities and programs, and providing for students to interact positively with others regardless of the protected categories listed at N.J.A.C. 6A:7-1.1(a) by increasing and promoting equitable representation of all students in all classes and programs. Increasing and promoting equitable representation does not mandate that particular classes, including gifted and talented, accelerated, and advanced classes, include students who do not meet the qualifications to attend the classes. Rather, it requires a school district to examine its student population, as a whole, and to determine whether otherwise qualified students who are members of protected classes are underrepresented in advanced classes.

128. Comment: The commenter stated that New Jersey leads the nation in public education and some people consider New Jersey as leading the nation in various areas, including gifted and talented, advanced, and accelerated education. The commenter also stated that the State needs to carefully consider and recognize that there are disproportionate gaps that occur along racial lines and that it is difficult to deny that the gaps are caused by discrimination and need emphasizing. (27)

Response: The Department agrees that New Jersey leads the nation in public education,

including leading the nation with regards to gifted, talented, advanced, and accelerated educational opportunities. The Department recognizes that racial discrimination can lead to opportunity and achievement gaps. However, the Department also recognizes that other forms of discrimination exist and cause opportunity and achievement gaps for students belonging to other protected categories, including, but not limited to, housing status, immigration status, and membership in the LGBTQIA+ community. Rooting out and preventing discriminatory behavior or practices, regardless of the protected class a student is a member, ensures that all students are provided equal access to educational activities and programs.

129. Comment: The commenter suggested amending N.J.A.C. 6A:7-1.7(b) to add “discouraging the use of tracking” between “narrowing the opportunity gap” and “providing equity in educational activities and programs.” While suggesting a deemphasis on tracking, the commenter cited testimonies from a Joint Committee on the Public Schools meeting that showed the most glaring disparities related to who has access to advanced and rigorous coursework. The commenter asserted that, during the past 20 years, there has been a deemphasis on desegregation efforts in favor of closing the achievement gap. The commenter stated that this shift in emphasis has led to an increase in segregation and was a mistake. The commenter suggested that gifted and talented, accelerated, and advanced classes should be emphasized to increase opportunities to participate in these classes. (27)

Response: The Department disagrees because the commenter’s suggested changes are not fully aligned with the overall goal and mission of the chapter, as proposed for readoption with amendments and repeals, or with N.J.A.C. 6A:7-1.7.

N.J.A.C. 6A:7-1.1(a), as proposed for amendment, states that the chapter’s purpose is to ensure all students, regardless of housing status, socioeconomic status,

immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq., are provided equal access to educational programs and services by district boards of education. N.J.A.C. 6A:7, as proposed for readoption with amendments, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

N.J.A.C. 6A:7-1.7 specifically requires each district board of education to provide all students with equal and bias-free access to all school facilities, courses, programs, activities, and services. The section also requires district boards of education to ensure the school district's curriculum and instruction are aligned to NJSL and address the elimination of discrimination by narrowing the achievement gap, providing equity in educational programs, and providing opportunities for students to interact positively with others. The section further requires district boards of education to ensure all students have access to adequate and appropriate counseling services and equitable and co-educational physical education and athletic programs.

130. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7-1.7(b)3 that will require each district board of education to ensure its curriculum and instruction address the elimination of discrimination 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 increasing and promoting equitable representation of all students in all classes and programs. The commenters stated that equality is a foundational principle that the Department does not have the right to erase or change. (33, 65, 68, 88, 89, 94, 98, 111, 115, 123, 127, 150, 165, 168, 178, 187, 197, 198, 199, 204, 214, 220, 239 through 280, 300 through 311, 315, 316, 317, 321, and 350)

Response: The Department disagrees. Nothing in the proposed amendments at N.J.A.C. 6A:7-1.7(b)3 will erase or change the concept of equality. The proposed amendments will

use asset-based language, remove gender-specific language, be inclusive of all protected classes and categories for which this chapter applies, and promote equitable representation of all students in all classes and programs offered by school districts.

131. Comment: The commenter expressed concern with the proposed amendments at N.J.A.C. 6A:7-1.7(b)3 that eliminate emphasis on preventing underrepresented minority students in accelerated programs and streamline language regarding protected categories and classes because the proposed amendments eliminate an emphasis on race. The commenter stated that the Department was unable to answer what percentage of Black and Latino students are in gifted and talented programs. (27)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7-1.7(b)3 affirm that school districts must increase and promote equitable representation of all students in all courses. By proposing to include all students and all classes, the Department is ensuring the historically underrepresented students, regardless of their protected category, have equitable access to all classes, including accelerated courses.

132. Comment: The commenter stated the Department should consider which side of the issue it is on when it comes to recognizing disproportionate gaps that occur along racial lines. The commenter also stated that the proposed amendments at N.J.A.C. 6A:7-1.7(b)3 eliminate the emphasis on preventing underrepresentation of minority students in gifted and talented, accelerated, and advanced classes. The commenter referenced Vice President Mulvihill's statement during proposal level discussion that charter schools serving minority students are outperforming the State average and Asian students, who are terribly discriminated against, score better than White students on standardized tests. The commenter stated that charter schools do not fully address the inequities in schools and cited U.S. Department of Education studies that demonstrated that Black and Brown students suffer the most due to lack of access to opportunities and resources and the

representation of Black students in gifted and talented programs has decreased. (352)

Response: The Department disagrees. N.J.A.C. 6A:7-1.7(b)3, as proposed for amendment, will ensure that school districts increase and promote equitable representation of all students. In doing so, school districts will be increasing access to opportunities and resources for not only Black and Brown students, but all students in the protected categories at N.J.A.C. 6A:7-1.1(a).

133. Comment: The commenter stated that the proposed amendments at N.J.A.C. 6A:7-1.7(b)3, which promote increased representation of underrepresented students in accelerated programs, eliminating things such as guidance to help with affirmative action efforts in employment, and streamlining the language regarding protected categories and classes challenge the relevance of race. The commenter also stated that the proposed amendments fall in line with national efforts to discourage race-conscious policies. The commenter disagreed with Vice President Mulvihill's previous statements that the narrative that discrimination is not the root cause of the achievement gap and that "it is our failure to run good schools in areas that serve minorities." (352)

Response: The Department disagrees with the commenter's statements about the proposed amendments at N.J.A.C. 6A:7-1.7(b)3. The proposed amendments at N.J.A.C. 6A:7-1.7(b)3 affirm that school districts must increase and promote equitable representation of all students in all courses. By proposing to include all students in all classes, the Department is ensuring that historically underrepresented students, regardless of their protected category, have equitable access to all classes, including accelerated courses. The proposed amendments address not only equity in education for people in a single protected category, but all persons in the protected categories listed at N.J.A.C. 6A:7-1.1(a).

134. Comment: The commenters objected to the repeal of N.J.A.C. 6A:7-1.8, Equality in employment and contract practices, because it will seriously weaken efforts to provide a thorough and efficient education. The commenters stated that releasing the responsibility for ensuring equity in employment and contract practices to other divisions of government will not only lessen the efforts of school districts to provide equal education to all students, but also will weaken efforts to bring forth equity within school communities. (19, 26, 28, 31, 32, 38, 39, 48, 461, 462, 463, 529, 791, and 792)

Response: The Department disagrees. N.J.A.C. 6A:7-1.8, requires school districts to ensure all persons have equal and bias-free access to all categories of employment in the State's public education system. The section also prohibits district boards of education from entering into any contract with a person, agency, or organization that discriminates on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. Further, this section prohibits district boards of education from assigning, transferring, promoting, or retaining staff, or failing to do so, on the sole basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. This section requires district boards of education to ensure equal pay for equal work among members of the school district's staff. All of the existing section's prohibitions are already extensively covered by existing labor laws and regulations, including, but not limited to, Title VII of the Civil Rights Act; the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e); the Equal Pay Act of 1963 (29 U.S.C. § 206(d)); Age Discrimination Act of 1967; Rehabilitation Act of 1973 and the Civil Rights Act of 1991. Therefore, this section is superfluous and does not provide any greater protection than existing law. The proposed repeal will have no impact on ensuring equity in employment and contract practices.

135. Comment: The commenter objected to the repeal of the employment provisions at N.J.A.C. 6A:7-1.8 because it will negatively affect teacher requirements and compromise efforts of recruiting representative staff. (27)
136. Comment: The commenter objected to the repeal of N.J.A.C. 6A:7-1.8 because it will compromise efforts to diversify teaching staff. (5)
137. Comment: The commenter suggested that N.J.A.C. 6A:7-1.8 should be maintained and not repealed. (363)
138. Comment: The commenter objected to the proposed repeal of N.J.A.C. 6A:7-1.8. The commenter stated that the repeal of this section does not support the need to address the teacher shortage or to create opportunities for individuals who lack access. The commenter also stated that this section strengthens efforts to achieve equity. (844)
139. Comment: The commenter stated that the repeal at N.J.A.C. 6A:7-1.8 undermines the efforts of diversifying staff and removes a source for an equitable process. (36)

Response to Comments 135 through 139: The Department disagrees. N.J.A.C. 6A:7-1.8 requires school districts to ensure all persons have equal and bias-free access to all categories of employment in the State's public education system. The section also prohibits district boards of education from entering into any contract with a person, agency, or organization that discriminates on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. Further, this section prohibits district boards of education from assigning, transferring, promoting, or retaining staff, or failing to do so, on the sole basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. This section requires district boards of education to ensure equal pay for equal work among members of the school district's staff. All of the existing section's prohibitions are

already extensively covered by existing labor laws and regulations; therefore, this section is superfluous and does not provide any greater protection than existing law.

140. Comment: The commenter stated that N.J.A.C. 6A:7 is intended to remove parental rights and obligations with regard to the education of children. The commenter also stated that the proposed amendments are un-American and are similar to the methods that communist countries indoctrinate children. The commenter cited the proposed amendment at recodified N.J.A.C. 6A:7-1.8(a), which states that the district boards 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. The commenter stated that the proposed amendments at recodified N.J.A.C. 6A:7-1.8(b) are a threat to district boards of education for noncompliance, a form of bullying, and the Department is using this power to push its agenda. The commenter also stated that equity is not needed, but character, achievement, equality of opportunity, and basic skills should be stressed instead. (111)

Response: The Department disagrees. "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. The focus on equity, is aligned with the Department's objective to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

Pursuant to N.J.S.A. 18A:4-23, the Commissioner has an obligation to enforce the

rules prescribed by the State Board. The requirement of the submission of a CEP is one of the rules for which the Commissioner must enforce.

141. Comment: The commenter objected to the proposed amendment at recodified N.J.A.C. 6A:7-1.8(b) to replace “equal” with “equitable.” (54 and 852)

Response: Please see the Response to Comment 123.

142. Comment: The commenter objected to the proposed amendments at recodified N.J.A.C. 6A:7-1.8(d) that will require the school district to implement the CEP within 60 days of the executive county superintendent’s certification of completion. The commenter stated this is a top-down and one-size-fits-all approach. The commenter questioned why the Department does not allow school districts and teachers to meet the required educational goals. (245)

Response: The Department disagrees with the commenter regarding recodified N.J.A.C. 6A:7-1.8(d). As proposed for amendment, N.J.A.C. 6A:7-1.8(d) requires the district board of education to initiate CEP within 60 days of the executive county superintendent’s certification of completion. The proposed amendments clarify that the executive county superintendent certifies completion of the CEP, and the district board of education approves the plan. The Department is not engaged in a top-down or one-size-fits-all approach. Each school district is able to tailor its CEP to its unique needs. Accordingly, nothing in the proposed amendment prevents school districts and educators from being able to teach and meet educational goals.

143. Comment: The commenter opposed recodified N.J.A.C. 6A:7-1.8(e) and the Commissioner-imposed sanctions that 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. The commenter stated that the State seems to be threatening schools into submission. The commenter questioned if there is a means to incentivize district boards of education to

implement good policy based upon experience. (245)

Response: The Department disagrees with the commenter regarding recodified N.J.A.C. 6A:7-1.8(e), as proposed for amendment. Pursuant to N.J.S.A. 18A:4-23, the Commissioner has the duty to supervise all schools in the State receiving support or aid from State appropriations and is empowered to enforce the rules prescribed by the State Board. Pursuant to N.J.S.A. 18A:55-2, the Commissioner is empowered to direct the State Treasurer to withhold funds payable by the State from any school district that fails to obey the law or rules or directions of the State Board or the Commissioner. The withholding of funds from school districts is not meant to threaten schools into submission but is necessary and a proper exercise of the Commissioner's authority to enforce the rules and regulations of the State Board. School districts and district boards of education are responsible and expected to be incentivized to implement good policy based upon experience through their needs assessments, honest conversations with stakeholders, and evaluation of data.

144. Comment: The commenter opposed recodified N.J.A.C. 6A:7-1.8(e) and the sanctions that may be imposed by the Commissioner if a school district does not complete and implement a CEP as required. The commenter stated that the imposition of sanctions is a complete overreach, goes against local control, and strips away parental rights. (324)
145. Comment: The commenters opposed recodified N.J.A.C. 6A:7-1.8(e) and the sanctions that may be imposed by the Commissioner if a school district does not complete and implement a CEP as required. The commenters stated that shifts school districts' authority to the State. The commenters expressed concern that parents are ultimately responsible for their children's education and the proposed amendments lessen the influence of parents through the system of elected district boards of education. (33, 64, 71, 78, 88, 89, 94, 98, 111, 116, 119, 122, 127, 150, 154, 159, 168, 194, 227, 243, 269,

271, 273, 275, 319, 324, 325, 401, 419, 434, 439, 453, 464, 465, 467, 481, 563, and 814 through 835)

Response to Comments 144 and 145: The Department disagrees. Pursuant to N.J.S.A. 18A:4-23, the Commissioner has the duty of supervision of all schools of the State receiving support or aid from State appropriations and is empowered to enforce the rules prescribed by the State Board. Pursuant to N.J.S.A. 18A:55-2, the Commissioner is empowered to direct the State treasurer to withhold funds payable by the State from any district which fails to obey the law or rules or directions of the State Board or the Commissioner. The withholding of funds from school districts is not meant to threaten schools into submission but is necessary and a proper exercise of the Commissioner's authority to enforce the rules and regulations of the State Board. Nothing in recodified N.J.A.C. 6A:7-1.8, as proposed for amendment, strips away parental rights or local control of a school district.

146. Comment: The commenter stated that school library media specialists work to build a print and digital collection that encompasses divergent viewpoints, cultures, and experiences and teach students to take responsibility for seeking multiple points of view and a global perspective. The commenter also stated that this broader perspective also allows school library media specialists to serve a unique role in addressing social and emotional learning for students. The commenter further stated that school libraries are safe havens for students, as well as a judgment-free space, and school library media specialists make the school library welcoming and comfortable. (854)

Response: The Department agrees with the commenter's perspective.

147. Comment: The commenters recommended adding "educational resources" to the purpose set forth at N.J.A.C. 6A:7-1.1. The commenters stated that access to educational resources is just as important as access to educational activities and programs. The

commenters also stated that given the inequities in how school media services are delivered throughout the State, school library media services should be included in the definition of “educational equity” at N.J.A.C. 6A:7-1.3. The commenters further stated that N.J.A.C. 6A:13-2.1(h) requires all school districts to provide, in each building, library media services that are connected to classroom studies, but not all students receive school library media services. (24, 29, 37, 41, 42, 43, 45, and 47)

Response: The Department declines to adopt the commenters’ proposed changes. The implementation of educational activities and programs is inclusive of educational resources. The addition of “educational resources” throughout the chapter is unnecessary as it is already implied and encompassed within the implementation of programs to ensure educational equity. Additionally, the inclusion of “resources including school library materials” is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSLS. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSLS.

148. Comment: The commenters recommended that the definition of “educational equity” at N.J.A.C. 6A:7-1.3 be amended to include “resources.” The commenters stated that the definition of “educational equity” from the National School Boards Association states that “[e]quity is achieved when all students receive the resources they need so they graduate prepared for success after high school.” The commenters also stated that educational resources need to showcase a broad range of perspectives given the diversity of New Jersey’s student population and that it is important for students to identify with the characters that they see in the books in their school libraries. The commenters further stated that how children perceive and interpret racism that permeates daily life may be

influenced by the way diversity is portrayed in the books they encounter and read. (24, 29, 37, 41, 42, 43, 45, and 47)

Response: The Department declines to adopt the commenters' proposed change. The implementation of educational activities and programs is inclusive of educational resources. The inclusion of "resources including school library materials" is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSL. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSL.

149. Comment: The commenters recommended that the definition of "equitable educational opportunity" at N.J.A.C. 6A:7-1.3 be amended to include "educational resources, including school library materials" after "programs." The commenters stated that robust school libraries provide high-quality, open-licensed digital and print resources, technology tools, and broadband access and that they are essential to providing equitable learning opportunities for all students. (24, 29, 37, 41, 42, 43, 45, and 47)

Response: The Department declines to adopt the commenters' proposed changes. The implementation of educational activities and programs is inclusive of educational resources. The inclusion of "educational resources, including school library materials" is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSL. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSL.

150. Comment: The commenters requested the Department add "including school library materials" after "resources" in the definition of "equity" at N.J.A.C. 6A:7-1.3, as proposed for amendment. (24, 29, 37, 41, 42, 43, 45, and 47)

Response: The Department declines to adopt the commenters' proposed change. The implementation of educational activities and programs is inclusive of educational resources. The inclusion of "including school library materials" in the definition of equity is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSL. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSL.

151. Comment: The commenters recommended that "school library resources" be included in the definition of "educational activities and programs" at N.J.A.C. 6A:7-1.3. The commenters stated that specific types of school library media are listed at N.J.A.C. 6A:13, Programs to Support Student Achievement, and that the requested change at N.J.A.C. 6A:7-1.3 would provide consistency. The commenters also stated that school districts are electing to eliminate school libraries and school library resources in direct opposition to the requirements at N.J.A.C. 6A:13. (37, 163, 164, 800, and 854)

Response: The Department declines to adopt the commenters' proposed changes. The implementation of educational activities and programs is inclusive of school library resources. Resources are required to implement any educational activity or program, in accordance with the NJSL. As the commenters stated, existing N.J.A.C. 6A:13 includes the requirements and definitions; therefore, including them at N.J.A.C. 6A:7 is duplicative. To the extent that the commenters are aware that school districts may be in violation of N.J.A.C. 6A:13, they may challenge the perceived violations by petitioning the Commissioner pursuant to N.J.A.C. 6A:3, Controversies and Disputes, or the appropriate court of competent jurisdiction, as appropriate to the circumstances.

152. Comment: The commenters requested that the Department amend N.J.A.C. 6A:7-1.4(c)1 to add "educational resources" to the assessment of a school district's needs for achieving

equity in educational activities and programs. The commenters also requested the addition of “resources” to the data that school districts must use to assess their needs for achieving equity in education activities, resources, and programs. The commenters stated that N.J.A.C. 6A:13-2.1(h) requires all school districts to provide library media services that are connected to classroom studies in each school building. The commenters also stated that not all students are receiving school library media services and that this data should be part of a school district’s self-assessment for equity. (24, 29, 37, 41, 42, 43, 45, and 47)

Response: The Department declines to adopt the commenters’ proposed changes. The addition of “educational resources” to the assessment of a school district’s needs for achieving equity in educational activities and programs is unnecessary because educational activities and programs require educational resources. The addition of “resources” to the data analysis is also unnecessary as it is encompassed in the other data that a district board of education must analyze in assessing the school district’s needs for achieving equity in educational activities and programs prior to developing and implementing the school district’s CEP, as required at N.J.A.C. 6A:7-1.4(c)1.

153. Comment: The commenters requested to add “educational resources” throughout N.J.A.C. 6A:7. The commenters cited a definition of “educational activities” from lawinsider.com, a definition of “educational programs” from the Organisation for Economic Co-operation and Development (OECD) Handbook for Internationally Comparative Education Statics, and a definition of “educational resources” from the Rhode Island Department of Education. The commenters cited N.J.A.C. 6A:13-2.1(h), which requires all school districts to provide library media services that are connected to classroom studies in each school building and that the services be under the direction of a school library media specialist. The commenters also cited the NJSLSCLKS Standard 9.4

to support the addition of “educational resources” throughout N.J.A.C. 6A:7. The commenters provided examples of the activities and programs that exist without resources and of resources that do not constitute a program or activity. The commenters questioned what a library would be like without books and electronic resources. The commenters stated that, in school districts where administrators are trying to provide only the minimum required by the Department, the administrators may provide a person without resources, or resources without a person or a plan, to meet the specified minimum requirements. (37, 163, 164, and 800)

Response: The Department declines to adopt the commenters’ proposed changes. The implementation of educational activities and programs is inclusive of educational resources. Resources are required to implement any educational activity or program, in accordance with the NJSLS. School libraries are implied in “equity,” as defined at N.J.A.C. 6A:7-1.3, which states that its focus is on students having consistent and systematic access to curriculum resources, instruction, and environments that sustain opportunities for excellent outcomes.

154. Comment: The commenter agreed with the comment previously provided by the New Jersey Association of School Librarians (NJASL), which suggested that “educational resources” and “resources including school library materials” be added throughout the chapter. The commenter stated that regularly identifying library materials as necessary tools for promoting equity will greatly benefit students and educators. The commenter also agreed that including educational resources in the needs assessment conducted prior to the development of a school district’s CEP will assist school districts in identifying and addressing resource gaps that may be contributing to educational inequities. (9)

Response: The Department declines to adopt the commenter’s proposed changes. The implementation of educational activities and programs is inclusive of educational

resources. The addition of “educational resources” throughout the chapter is unnecessary as it is already implied and encompassed within the implementation of programs to ensure educational equity. Additionally, the inclusion of “resources including school library materials” is unnecessary, as they are already implied and encompassed at N.J.A.C. 6A:7-1.7(b), which requires the provision of equity in educational activities and programs that are aligned to the NJSLS. Resources, including school library materials, are required to implement any educational activity or program, in accordance with the NJSLS.

155. Comment: The commenter stated that the library media center in the school in which the commenter works is a thriving place of learning and friendship and that the student body of the school where the commenter is employed is made up of highly motivated students who consider the library media center to be the school’s hub. The commenter also stated that one school building in the commenter’s school district does not have a certified school library media specialist and that the void in the students’ education is noticeable. The commenter further stated that teachers from that building frequently reach out to the other library media specialists in the school district for assistance and that the principal has reached out to the commenter for recommendations to make the library media center function in its current state. The commenter stated that students in the commenter’s school question why they have access to certain things to which their friends in other buildings do not. The commenter also stated that every student should have equal access to school library resources. (24)

Response: The Department agrees with the commenter that every student should have equal access to school library resources as required at N.J.A.C. 6A:13-2.1(h). Through the CEP, the school district must identify the policy that requires equal access to school library resources. Through New Jersey Quality Single Accountability Continuum

(NJQSAC), Governance Indicator 14, the Department's mechanism for evaluating school districts, the county offices of education confirm that school districts are compliant with N.J.A.C. 6A:13-2.1(h).

156. Comment: The commenter stated that it is important for students to see not only themselves in the books that they read but also others. The commenter also stated that students are not discovering new worlds on their own, and that the school library media specialists are responsible for introducing these new worlds to students and to show them what diversity looks like. The commenter further stated that students need diversity in reading materials found readily available in their school libraries. Additionally, the commenter stated that school library media specialists work to build a print and digital collection that encompasses divergent viewpoints, cultures, and experiences and teach students to take responsibility for seeking multiple points of view and a global perspective. The commenter also stated that this broader perspective also allows school library media specialists to serve a unique role in addressing social and emotional learning for students. The commenter further stated that school libraries are safe havens for students, as well as a judgment-free space, and school library media specialists make the school library welcoming and comfortable. (854)

Response: The Department agrees with the commenter. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

157. Comment: The commenter requested that the Department consider recommendations regarding the proposed amendments at N.J.A.C. 6A:7, but did not provide any recommendations for the Department's consideration. The commenter stated that every student having access to a qualified school librarian is essential to providing equitable and equal educational resources. The commenter also stated that equitable resources will continue to grow in New Jersey by providing each student with the opportunity to learn and develop into a strong, educated member of society. The commenter further stated that a school librarian in a proper school library is essential to equitable education. The commenter also stated that it is important for the students of New Jersey to have equitable access to school libraries and classroom resources and that too many children do not have that opportunity. (25)

Response: The Department agrees with the commenter regarding the importance of equitable access to resources and school library media specialists in supporting student achievement and excellent outcomes for all students. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

158. Comment: The commenter requested that State Board members read all of the comments and testimony submitted, not just the comment and response form provided by the Department. (363)

Response: Rulemakings presented to the State Board are subject to public testimony when a rulemaking is at second discussion and after the notice of proposal has been

published in the New Jersey Register. All State Board members are provided copies of the public testimony submitted by individuals who testify in-person or submit written testimony. Comments submitted during the rulemaking process but outside of the public testimony sessions are included in the comment and response form, along with the summary of the public testimony, as appropriate, and the Department's responses.

159. Comment: The commenter questioned why N.J.A.C. 6A:7 was not included in the President's Report announcement about next month's public testimony like it was for N.J.A.C. 6A:15, Bilingual Education. (27)

Response: The correct New Jersey Administrative Code chapters subject to public testimony for the January 11, 2023, State Board meeting were listed on the agenda.

N.J.A.C. 6A:7 was inadvertently left out of the public testimony announcement the month prior. However, the State Board was accepting only written public testimony for the January 11, 2023, meeting, so members of the public did not miss an opportunity to provide in-person testimony regarding N.J.A.C. 6A:7 when it was at second discussion. The public had the opportunity to submit written comments once the proposed readoption with amendments and repeals at N.J.A.C. 6A:7 was made public at first discussion in December 2022. In total, the public had the opportunity to comment on N.J.A.C. 6A:7 for 177 days during the rulemaking process.

160. Comment: The commenter questioned why N.J.A.C. 6A:7 was discussed by the State Board only twice, while N.J.A.C. 6A:9, 9A, 9B, and 9C were provided three discussions. (27)

Response: Pursuant to N.J.A.C. 6A:6-3.1(b)1, the State Board may decide to place a discussion level document on the State Board's monthly agenda at one or more public meetings, in accordance with the Senator Byron M. Baer Open Public Meetings Act (OPMA), N.J.S.A. 10:4-6 et seq. The State Board routinely considers a discussion level

document for a proposed readoption with amendments and repeals, like the notice of proposal for N.J.A.C. 6A:7, during two public meetings. The State Board considered the discussion level documents for the readoptions with amendments at N.J.A.C. 6A:9, 9A, 9B, and 9C during three meetings because the four chapters, collectively, are lengthy and closely relate to each other to establish rules governing the educator preparation, certification, and professional development processes.

161. Comment: The commenter asked at what point the Department stopped adding public comments to the proposal level comment and response form. (27)

Response: For administrative reasons, the Department stopped processing comments for the proposal level comment and response prior to the website posting of the document and other State Board agenda materials on February 27, 2023. All subsequent comments received through the end of the comment period at 11:59 P.M., on June 2, 2023, are included in this comment and response for adoption level.

162. Comment: The commenter stated that the Department's response that a comment made at proposal level was "out of the scope of the rulemaking" is insufficient and shows the Department's and State Board's failure to follow the New Jersey Administrative Code process set forth at N.J.A.C. 6A:6. (27)Response: The Department disagrees. When the Department responds that a comment is outside of the rulemaking, it means that the comment is not directly related to the chapter in Title 6A of the New Jersey Administrative Code pursuant to consideration.

163. Comment: The commenter asked what Department staff member is leading this rulemaking. (27)

Response: Assistant Commissioner of the Division of Field Support and Services, Christopher Irving, Ed.D., oversaw the readoption with amendments and repeals at N.J.A.C. 6A:7.

164. Comment: The commenter stated that the commenter's written testimony regarding the Department's rulemaking practices and implementation of stakeholder engagement were omitted from the proposal level comment and response form. The commenter also stated that comments regarding which notice of proposals were preceded by policy discussion papers and/or were given more time as the expiration date approached, how the need for additional attention to a rulemaking was determined, and keeping the Department's website up to date so as to better cultivate substantial participation in discussions about N.J.A.C. 6A:7 also were omitted. The commenter further stated that spaces to discuss policy should include more than the usual institutional organizations if there is to be authentic stakeholder engagement. (27)

Response: Please see the Response to Comment 158.

165. Comment: The commenter stated that the public testimony session in May 2023 was an insult to taxpayers because there were three sessions that could not be attended simultaneously, and the State Board members were not able to hear and respond to all public testimony. The commenter also stated that there appeared to be bias against those parents and educators who had appeared to defend parental rights and that the State Board member responses to these comments were non-existent. The commenter further stated that the State Board members freely and openly responded to members of the public who supported the proposed amendments, which the commenter indicated is evidence of bias. The commenter stated that they have not received a response to their testimony. (400)

Response: Pursuant to N.J.A.C. 6A:6-1.2, a public testimony session is a Department forum at which a panel of State Board members has the opportunity to listen to comments from interested persons regarding new rules, amendments, and/or repeals. The Department's responses to public testimony and other comments on a specific

rulemaking are included in a comment and response form that is made publicly available as part of the State Board's agenda.

166. Comment: The commenter stated the public comment period regarding the proposed readoption with amendments and repeals at N.J.A.C. 6A:7 should be extended so all impacted individuals have time to make comments. (355)

Response: The Department disagrees. The proposed readoption with amendments and repeals followed the established process for the discussion, proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6. The process includes multiple discussions at State Board meetings and the comment period required by the Administrative Procedures Act and N.J.A.C. 1:30. In total, the public had the opportunity to comment on the proposed readoption with amendments and repeals at N.J.A.C. 6A:7 for 177 days during the rulemaking process.

167. Comment: The commenter lauded the Departments' efforts for tackling the difficult issues concerning gender identity and commended the Acting Commissioner for the proposed amendments at N.J.A.C. 6A:7 that pertain to sex education and gender identity. The commenter stated that sex education and gender identity are highly charged and emotional topics for discussion and are subject to considerable social pressure, misinformation, and many overt and covert biases. The commenter also stated that gender is normally assigned at birth based upon the simple external presence of genitalia, without the use of genetics or more scientific means. The commenter further stated that this cursory classification is generally reliable but is inadequate for a small segment of the population and that the variations in gender do not reflect what other chemical, physical, and environmental influences may contribute to non-binary and non-conforming gender identity. The commenter stated that gender oppression contributes to dramatically high depression and suicide rates among students, particularly transgender

students, as well as bullying and ill-treatment.

The commenter questioned whether the Department's decisions regarding the readoption with amendments and repeals of N.J.A.C. 6A:7 are being made by people with knowledge and experience of gender identity. The commenter stated the importance of direct input from this community and suggested organizations that can offer insight and experience from the transgender and non-binary perspective, including New Jersey Pride Chamber of Commerce, Garden State Equality, and Southern New Jersey LGBTQA Pride.

The commenter supported the State Board in addressing the challenging topic of gender identity for the benefit of New Jersey youth. (3)

Response: The Department thanks the commenter for their support. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

168. Comment: The commenters objected to the proposed amendments regarding sex and gender throughout N.J.A.C. 6A:7. (219, 222, and 223)

Response: The protections afforded to members of the LGBTQIA+ community, as incorporated at N.J.A.C. 6A:7, are consistent with NJLAD and the policies explicitly set forth and underlying the Governor's Executive Order Number 326, dated April 4, 2023, which specifically notes that the State of New Jersey is one of the first states in the country to explicitly prohibit discrimination based on sexual orientation, gender identity,

and gender expression, and that the State seeks to address societal barriers to equality faced by the LGBTQIA+ community.

169. Comment: The commenters objected to the repeal of “gender” throughout N.J.A.C. 6A:7 and specifically at N.J.A.C. 6A:7-1.1(a). (40, 50 through 90, 92 through 128, 190, 291, 292, 299, 319, 322, 323, 353, 372, 398, 407, 411, 420, 421, and 425)

Response: The proposed amendments at N.J.A.C. 6A:7 are designed to eliminate gendered nouns and pronouns; utilize more inclusive language reflective of the protected categories or classes as defined pursuant to the NJLAD, streamline and clarify rules, procedures, and operations throughout the chapter, update terminology to align to provisions throughout Title 6A of the New Jersey Administrative Code, Title 18A of the New Jersey Statutes, and practices regarding equity in education, while removing redundant language or sections with the chapter which are covered pursuant to other provisions and laws.

170. Comment: The commenters also stated that the repeal of “gender” throughout N.J.A.C. 6A:7 is harmful and is an assault upon every female student in the public school system. The commenters stated that the Department is attempting to remove and erase girls. The commenters stated that the proposed amendments are a stripping of constitutionally protected rights. (40, 50 through 70, 72 through 87, 89, 90, 93, 95 through 126, 128, 190, 291, 292, 299, 319, 322, 323, 353, 372, 398, 407, 411, 420, 421, and 425)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 are designed to eliminate gendered nouns and pronouns; utilize more inclusive language reflective of the protected categories or classes as defined pursuant to the NJLAD, streamline and clarify rules, procedures, and operations throughout the chapter, update terminology to align to provisions throughout Title 6A of the New Jersey Administrative Code, Title 18A of the New Jersey Statutes, and practices regarding equity in education,

while removing redundant language or sections with the chapter which are covered pursuant to other provisions and laws. The repeal of “gender” at N.J.A.C. 6A:7-1.1(a) does not remove or erase girls as a protected class. Girls and women are still otherwise protected pursuant to the law within the references to “sex” and “gender identity or expression,” both of which are maintained at N.J.A.C. 6A:7-1.1(a).

“Gender identity” is defined as having or being perceived as having a gender-related identity or expression whether stereotypically associated with a person’s assigned sex at birth. Nothing in the definition diminishes the rights of those who are biological females and have a gender identity or expression that is consistent with their biological sex assigned at birth. Furthermore, nothing in the proposed amendments infringes upon any of the rights protected by the Constitution of the United States.

Additionally, the proposed amendments at N.J.A.C. 6A:7, the repeal of “gender” at N.J.A.C. 6A:7-1.1(a), and the usage and definition of “gender identity or expression” are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

171. Comment: The commenters stated that the repeal of “gender” throughout N.J.A.C. 6A:7 will have a devastating effect upon the education of New Jersey’s children. The commenters also stated that the repeal of “gender” at N.J.A.C. 6A:7-1.1(a) will strip away rights and levy an assault on girls’ educational opportunities. The commenters further stated that the proposed amendment essentially removes girls and young women as a protected class. The commenters suggested that the Department act judiciously and ensure protection of all groups by pausing the proposed readoption and continuing public discussion before taking a rash and radical stance. (71, 88, 92, and 94)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 are designed to eliminate gendered nouns and pronouns; utilize more inclusive language

reflective of the protected categories or classes as defined pursuant to the NJLAD, streamline and clarify rules, procedures, and operations throughout the chapter, update terminology to align to provisions throughout Title 6A of the New Jersey Administrative Code, Title 18A of the New Jersey Statutes, and practices regarding equity in education, while removing redundant language or sections with the chapter which are covered pursuant to other provisions and laws. The repeal of “gender” at N.J.A.C. 6A:7-1.1(a) does not remove or erase girls as a protected class. Girls and women are still otherwise protected pursuant to the law within the references to “sex” and “gender identity or expression,” both of which are maintained at N.J.A.C. 6A:7-1.1(a).

172. Comment: The commenter stated that the removal of “gender” throughout N.J.A.C. 6A:7 is very disturbing. The commenter also stated that the Department is attempting to remove every student in New Jersey’s public school system by removing “gender.” The commenter further stated that the proposed amendment is harmful to the future society and is a stripping of constitutionally protected rights. (127)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 are designed to eliminate gendered nouns and pronouns; utilize more inclusive language reflective of the protected categories or classes as defined pursuant to the NJLAD, streamline and clarify rules, procedures, and operations throughout the chapter, update terminology to align to provisions throughout Title 6A of the New Jersey Administrative Code, Title 18A of the New Jersey Statutes, and practices regarding equity in education, while removing redundant language or sections with the chapter which are covered pursuant to other provisions and laws. The deletion of “gender” from N.J.A.C. 6A:7-1.1(a) does not otherwise remove any students from the public education system.

Additionally, the proposed amendments at N.J.A.C. 6A:7, the deletion of “gender” at N.J.A.C. 6A:7-1.1(a), and the usage and definition of “gender identity or

expression” are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department’s objective with the proposed amendments at N.J.A.C. 6A:7 is to ensure equity in education, eliminate discrimination, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

173. Comment: The commenter stated that N.J.A.C. 6A:7 is filled with unrealistic LGBTQIA+ overreach and ideology, including the deletion of “gender” at N.J.A.C. 6A:7-1.1(a) and the replacement of “gender” with “genetic information.” The commenter also stated that the chapter is a perversion of history by comparing the struggles of the LGBTQ community to people who endured the Holocaust. The commenter further stated that this comparison is arrogant and mocks truth and religious liberty. (165)

Response: The Department disagrees. The proposed amendment at N.J.A.C. 6A:7-1.1(a) to delete “gender” from the list of protected categories is appropriate, as it is encompassed within “gender identity or expression.” Therefore, the proposed amendment will eliminate a redundancy and conform with the protected categories pursuant to NJLAD. The addition of “genetic information” is not a replacement for “gender” but rather the inclusion of an additional protected category that is protected by NJLAD.

Permitting discrimination based upon sexual orientation, gender identity, or gender expression, and continuing to allow for the continuance to the societal barriers faced by the LGBTQIA+ community would be a dereliction of the Department’s obligations and the authority granted to it by the New Jersey Legislature, which is

required by Art. VIII, Sec.. IV, Par. 1 of the New Jersey Constitution to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children between the ages of five and 18 years. All students entitled to a thorough and efficient system of education includes members of the LGBTQIA+ community.

The commenter's statements connecting the statutorily mandated inclusion of the Commission on Holocaust Education's curriculum to an ideology or agenda regarding the LGBTQIA+ community is inaccurate. The proposed amendment at N.J.A.C. 6A:7-1.3 will clarify the purpose of the Commission on Holocaust Education's curriculum. The New Jersey Legislature required instruction regarding the historical and societal impact of members of the LGBTQIA+ community through the enactment of P.L. 2019, c. 6 (N.J.S.A. 18A:35-4.35 and 4.36).

174. Comment: The commenter objected to the educational LGBTQ agenda and the exploitation of Nazi genocide to advance the agenda. The commenter stated that the Department does not have the right to teach a boy that they are not a boy and girl that they are not a girl and that anyone who teaches it is not an educator. The commenter further stated that the Department does not have the legal or constitutional right to impose these views on the entire educational system, and by doing so the Department is overextending the constitutional mandate. The commenter stated that the proposed amendments redefining the values and ideas that are the bedrock of the republic. The commenter stated the inclusion of the Commission on Holocaust Education curriculum at N.J.A.C. 6A:7-1.3 and as used throughout the chapter is the promotion of an agenda that uses the Holocaust and the people killed by the Nazis to indoctrinate children and it is sacrilegious and abusive. The commenter also stated that people killed in the Holocaust were completely against the LGBTQ agenda. (403)

Response: The Department disagrees. Permitting discrimination based upon sexual orientation, gender identity, or gender expression, and continuing to allow for the continuance to the societal barriers faced by the LGBTQIA+ community would be a dereliction of the Department's obligations and the authority granted to it by the New Jersey Legislature, which is required by Art. VIII, Sec.. IV, Par. 1 of the New Jersey Constitution to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children between the ages of five and 18 years. All students entitled to a thorough and efficient system of education includes members of the LGBTQIA+ community.

The commenter's statements connecting the statutorily mandated inclusion of the Commission on Holocaust Education's curriculum at N.J.A.C. 6A:7-1.3 to an ideology or agenda regarding the LGBTQIA+ community is inaccurate. The proposed amendment at N.J.A.C. 6A:7-1.3 will clarify the purpose of the Commission on Holocaust Education's curriculum. N.J.A.C. 6A:7-1.7(b)7 requires district boards of education to ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning 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). These include, but are not limited to, the mandate that requires instruction to middle school and high school students on the political, economic, and social contributions of persons with disabilities and LGBT people, pursuant to N.J.S.A. 18A:35-4.35. The requirement that all legislatively mandated curricular requirements does not add the teaching of LGBTQIA+ issues to the teaching of the Holocaust and the Holocaust/genocide curriculum mandated by N.J.S.A. 18A:35-28. They are separate and

distinct curriculums with separate and distinct mandates called for by the New Jersey Legislature.

175. Comment: The commenter stated that it is inappropriate to draw a propagandistic parallel between Holocaust Jews, who were the victims of Nazi aggression, and present-day gay political activists. The commenter also stated that belittling Holocaust history is universally considered anti-Semitic and, therefore, the proposed amendments at N.J.A.C. 6A:7 are anti-Semitic and a form of Holocaust denial. The commenter further stated that people who fail to learn history are doomed to repeat it and that is why Holocaust studies are important. The commenter stated that the “gay propaganda” in the school district in which the commenter resides singles out religious Jews as having too much political power. The commenter also asserted that it is anti-Semitic to demonize Jews for their religious beliefs. (401)

Response: The Department disagrees. Nothing at N.J.A.C. 6A:7 belittles Holocaust history, as the commenter stated. Instead, the proposed amendments ensure that the Holocaust/genocide legislative mandate, pursuant to N.J.S.A. 18A:35-28, is met by district boards of education. As proposed for amendment, the reference to “Holocaust and genocide curriculum” is being replaced with “Commission on Holocaust Education curriculum.” The Commission on Holocaust Education Curriculum is instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education, infused into the NJSLS, and meet the Holocaust/genocide mandate 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.

Proposed amendments at N.J.A.C. 6A:7-1.7(b)7, which requires district boards of education ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning 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). These include, but are not limited, to the mandate that requires instruction to middle school and high school students on the political, economic, and social contributions of persons with disabilities and LGBTQ people, pursuant to N.J.S.A. 18A:35-4.35. The requirement that all legislatively mandated curricular requirements does not otherwise belittle the Holocaust.

176. Comment: The commenter stated that adding LGBTQIA+ issues to teaching of the Holocaust serves only the purpose of promoting an ideology and the constant emphasis on sex and gender is harmful and serves only one world view. The commenter also stated that the United States is successful because of equality of opportunity, as opposed to outcome, which is the goal of Marxism. The commenter further stated America's schools are 37th among democratic societies and is failing and falling behind every other country due to the emphasis on the wrong things. The commenter requested that the Department not promote anything that divides people and, instead, to make achievement and merit the goal, teach history without bias, and support parents in their desire to teach godly values to the next generation. (111)

Response: The Department disagrees. The commenter appears to object to N.J.A.C. 6A:7-1.7(b)7, which requires district boards of education to ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning 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). These include, but are not limited, to the mandate that requires instruction to middle school and high school students on the political, economic, and social contributions of persons with disabilities and LGBTQIA+ people, pursuant to N.J.S.A. 18A:35-4.35. The requirement that all legislatively mandated curricular requirements does not add the teaching of LGBTQIA+ issues to the teaching of the Holocaust and the Holocaust/genocide curriculum mandated by N.J.S.A. 18A:35-28. They are separate and distinct curriculums with separate and distinct mandates called for by the New Jersey Legislature.

The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

177. Comment: The commenter supported the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i to replace “for male and female students” with “based on gender identity.” The commenter stated that forcing transgender students to take classes based upon the students’ biological sex would be demeaning and harmful. (4)

Response: The Department appreciates the commenter’s support.

178. Comment: The commenter agreed with the Department’s responses to the public and State Board members’ comments concerning N.J.A.C. 6A:7-1.7(b)2i. The commenter stated that the comments made by the public and certain State Board members promoted misinformation about gender identity and suggested that the Department be complicit in violating the NJLAD and aspects of the Federal Patsy Takemoto Mink Equal Opportunity in Education Act, formerly known as Title IX of the Education Amendments of 1972,

which prohibit discrimination in education based on sex. (9)

Response: The Department appreciates the commenter's support.

179. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i to replace "for male and female students" with "based on gender identity." (1, 3, 12 through 18, 33, 34, 40, 46, 53, 64, 65, 68, 80, 88, 89, 94, 98, 101, 111, 115, 122, 123, 127, 149, 151, 162, 165, 167, 168, 178, 187, 190, 194, 197, 198, 199, 204, 214, 220, 239 through 298, 300 through 311, 315, 316, 317, 320, 321, 324, 348, 350, 353, 364, 371, 375 through 383, 400, 404, 406, 409, 410, 411, 423, 464, 465, 467, 481, 486, 487, 488, 489, 491, 500, 501, 502, 503, 544, 554, 565, 573, 789, 795, 798, 799, 803, and 809)

180. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i because topics surrounding sexuality and sexual education are already sensitive subjects for students. The commenters stated that forcing girls to learn this information while in the company of boys who think they are girls is insensitive and likely to cause harm by creating insecurities and the possibility that girls will be harassed and abused. The commenters also stated that the proposed amendment would undermine the beauty of womanhood. (94, 269, 464, 465, 467, 481, and 809)

Response to Comments 179 and 180: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7, including those at N.J.A.C. 6A:7-1.7(b)2i, are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

If students are separated for class sessions that exclusively deal with human

sexuality, it must be done in accordance with State and Federal law, meaning that the assignment to a class session that is divided by gender must be done based upon the student's expressed gender identity. Permitting school districts to assign students to classes based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

181. Comment: The commenters generally support N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, and the Department's commitment to equity for all students in New Jersey. However, the commenters expressed concern regarding the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i. The commenters stated that classes on human sexuality should be provided in groups that are inclusive of all genders. The commenters also stated that teaching classes concerning human sexuality in inclusive groups would allow the classes to not be isolated from other curricular areas, so an understanding of the differences and similarities across all genders can be facilitated. The commenters further stated that non-binary and gender non-conforming students can feel uncomfortable if required to choose a course division based upon gender identity, which, the commenters stated, is the opposite of equity. (580 through 788, 790, and 801)

Response: The Department appreciates the general support of the Department's commitment to equity. However, the Department declines to delete N.J.A.C. 6A:7-1.7(b)2i, as suggested by the commenters. The Department recognizes that effective educational decisions regarding class offerings and structures reflect the input and expertise of the entire school community, including educators and families. In making

decisions regarding class offerings and structure for all content areas, school districts are strongly encouraged to seek input on these decisions and to provide opportunities for meaningful engagement with the school community, including parents and other stakeholders who can provide input regarding the moral development and guidance of children. The narrow exception to the requirement that district boards of education ensure that courses are not offered separately based upon the protected classes listed at N.J.A.C. 6A:7-1.1(a) gives school districts flexibility to tailor programs to the needs of the students and local communities based upon the input from community stakeholders.

182. Comment: The commenter stated that the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is harmful to children because it denies a child's biology, causes both a confusing and resentful environment, and causes psychological and physical harm that children will carry for the rest of their lives. The commenter expressed an unshakeable belief that all human beings are born male or female and that science and nature confirm this fact. The commenter also stated that humans cannot continue without a man and a woman, as both are necessary to create a baby. The commenter further stated that there is a historic push to remove parental consent when it comes to various educational and medical topics.
- (400)

Response: Please see the Response to Comment 179.

183. Comment: The commenters stated that N.J.A.C. 6A:7-1.7(b)2i, as proposed for amendment, would force schools that have decided to separate students based on gender identity for certain health and physical education lessons that focus on biologically based puberty and physical growth and development to separate students by gender identity. The commenters expressed concern that elementary students will face an undue burden and are likely to become too confused and embarrassed to publicly discuss these sensitive topics with peers of the opposite sex present in the classroom.

The commenters stated that the proposed amendments will hinder students from asking questions and seeking clarification regarding important information about their anatomy and physiology. The commenters also stated that separating classes by gender identity will enable, for example, biological males who identify as girls to interrupt the comfortable and trusting learning environment that young female elementary students deserve. (1, 12 through 18, 34, and 162)

Response: The Department disagrees. If students are separated for class sessions that exclusively deal with human sexuality, it must be done in accordance with State and Federal law. Therefore, the assignment to a class session that is divided by gender must be done based upon the student's expressed gender identity. Permitting school districts to assign students to classes based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression. Moreover, N.J.S.A. 18A:36-41.b(8) requires the Commissioner to develop and distribute to school districts guidelines concerning transgender students, including information and guidance permitting transgender students to participate in gender-segregated school activities in accordance with their gender identity.

As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. A school district is not required to hold separate sessions and can continue to develop health education curriculum based upon the school district's

curriculum development and review process. All locally adopted instructional materials must be aligned to the school district's curriculum as a whole and the NJSLS. Curriculum is required to be current, medically accurate, developmentally and age-appropriate, and developed and selected through meaningful and ongoing consultation with the school community. Given the ability of school districts to align their curricula to local needs, any issues raised can be addressed at the local level when decisions are made regarding whether to hold separate sessions on this subject matter.

184. Comment: The commenters asked the Department to consider the following questions in regard to the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i:

- How will this impact many school districts that have locally approved policies that require male teachers to instruct male students on puberty and growth development and female teachers to instruct female students?
- How will parental concerns and objections be addressed?
- Will parents and district boards of education once again face intimidation and threatening rhetoric from the Department, such as withholding funding or removing district board of education members because they incorporated parental input in their decision-making process? (1, 12 through 18, 34, and 162)

Response: The Department appreciates the questions. The proposed amendments at N.J.A.C. 6A:7-1.7(b)2i will have no impact on school district policies requiring male teachers to instruct students who identify as a boy or man on puberty and growth development and female teachers to instruct students who identify as girls or women. N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception that permits school districts, if they so choose, the ability to hold separate sessions based upon gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. School districts

are not required to separate students based upon gender identity as it pertains to these classes.

Parents and guardians have always had the right to object to their child attending lessons related to health, family life education, or sex education pursuant to N.J.S.A. 18A:35-4.7. The proposed amendments at N.J.A.C. 6A:7-1.7(b)2i will not impact the statutory provisions. The Department expects that school districts will adhere to the regulatory requirements around teaching the important topics. However, school districts remain responsible for determining how the classes will be taught. If students are separated for class sessions that exclusively deal with human sexuality, it must be done in accordance with State and Federal law. That means that the assignment to a class session must be done based upon the student's expressed gender identity. Permitting school districts to assign students to classes based upon sex assigned at birth or biological sex would not be consistent with State law. The NJLAD prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression. N.J.S.A. 18A:36-41.b(8) anticipates that the Commissioner's guidelines to school districts concerning transgender students will include permitting a transgender student to participate in gender-segregated school activities in accordance with the student's gender identity.

185. Comment: The commenter urged the Department and the State Board not to adopt the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i. The commenter stated that the State Board does not have authority to adopt or change the New Jersey Administrative Code or statutes that go against the United States Constitution. The commenter cited *Marbury v. Madison*, 5 U.S. 137 (1803) and Am Jur 256 for the general proposition that the Constitution is law, and an unconstitutional statute is not law and is wholly void and

ineffective. The commenter stated that tolerating and accepting something that is against an individual's or group's deeply held religious beliefs is a violation of individuals' or groups' First Amendment rights and the commenter's right to exercise religion and abridges freedom of speech. (40)

Response: The Department disagrees. Nothing in the proposed amendments at N.J.A.C. 6A:7 establishes a religion or prohibits the free exercise of religion. Additionally, nothing in the proposed amendments is contrary to the rights and privileges set forth in the New Jersey State Constitution.

186. Comment: The commenter disagreed with the Department's interpretation that the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is required by NJLAD and Title IX and cited *Adams ex rel. Kasper v. School Board of St. Johns County, Florida* and *B.P.J. v. West Virginia*. The commenter stated that N.J.S.A. 18A:36-41.b(8), which requires the Commissioner to develop guidelines concerning transgender students, does not make the guidelines law. The commenter also stated that there is no Federal or State law that requires the separation of students by their preferred gender identity and not by biological sex for classes dealing exclusively with human sexuality. The commenter further stated that gender identity was added to NJLAD in 2006 and, for 17 years, the Department did not utilize this interpretation to mean that students in health class cannot be separated based upon sex. The commenter stated that the Department's new interpretation is disingenuous. The commenter also stated that a sexualized political agenda has been imposed upon young minds and the State Board is doing nothing to protect them.

The commenter expressed disapproval of the comments made by Dr. Joseph Ricca, at the State Board's December 7, 2022 hearing, that a student may select their gender at any time. The commenters stated that it will be problematic in elementary grades that focus on biologically based puberty and body growth development. The commenter also stated that

students will be embarrassed and unlikely not ask questions in health class due to being in class with peers of the opposite sex. The commenter further stated that the relationship between district boards of education, parents, and the Department will be damaged, possibly forever, if the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is not withdrawn. (364)

Response: The Department disagrees. Gender identity is a protected class pursuant to NJLAD, which prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. A school district is not required to hold separate sessions and can continue to develop health education curriculum based upon the school district's curriculum development and review process.

The court decisions cited by the commenter are not binding precedent in New Jersey.

187. Comment: The commenter stated that, in class sessions concerning human sexuality, not all students may be comfortable, and they will not ask questions if they feel intimidated or embarrassed. The commenter also stated that this is not effective learning, and it does not promote equitable representation of all students. The commenter further stated that schools are forcing ideology and biology, and that the chromosomes of males and females remain the same, despite hormones, dress, behaviors, and even surgery. The commenter stated that the fact that males do not menstruate as scientific evidence.

The commenter stated that the First Amendment to the United States Constitution

states that the government cannot prohibit the free exercise of religion or deeply held religious views. The commenter stated that if N.J.A.C. 6A:7 is readopted with amendments and repeals, the Department will be prohibiting free exercise of religious liberty of students and teachers in every New Jersey public school district and will violate the commenter's religious views, as well as those of Jews, Muslims, and all Christians. (64)

188. Comment: The commenter stated that a girl should not be forced to learn about private female sexuality in the same classroom as a biological boy, and that no teacher should be forced to deny the truth that boys and girls are not the same. The commenter also stated that gender dysphoria is not the same as becoming the opposite sex. The commenter stated that if the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is adopted, the Department will be prohibiting the free exercise of religious liberty of students, teachers, and staff in every New Jersey public school. (165)

189. Comment: The commenters stated that the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i will erase facts. The commenters also stated not permitting schools to separate children by biological sex during classes that deal exclusively with human sexuality is unwise and dangerous. The commenters further stated that the Department is forcing ideology into schools and confusing children. The commenters stated that schools should teach biology, not ideology. The commenters also stated that boys and girls are different and, as such, schools should be able to decide how they teach human sexuality in health class. The commenters further stated that the State should not mandate that boys and girls learn about private matters in the same health class. The commenters also stated that no teacher should be forced to deny the truth that boys and girls are not the same. (33, 46, 53, 65, 68, 80, 88, 89, 94, 98, 101, 111, 115, 122, 123, 127, 149, 167, 168, 178, 187, 190, 194, 197, 198, 199, 204, 214, 220, 239 through 297, 298, 300 through 311, 315, 316, 317,

320, 321, 324, 348, 350, 353, 371, 375 through 383, 404, 406, 409, 410, 411, 423, 486, 487, 488, 489, 491, 500, 501, 502, 503, 544, 554, 565, 573, 789, 795, 798, 799, and 803) Response to Comments 187, 188, and 189: The Department disagrees. Nothing requires school districts to separate students for class sessions that deal with human sexuality. As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same.

If students are separated for class sessions that exclusively deal with human sexuality, it must be done in accordance with State and Federal law. Meaning that the assignment to a class session that is divided by gender must be done based upon the student's expressed gender identity. Permitting school districts to assign students to classes based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression. Moreover, N.J.S.A. 18A:36-41.b(8) requires the Commissioner to develop and distribute to school districts guidelines concerning transgender students, including information and guidance permitting transgender students to participate in gender-segregated school activities in accordance with their gender identity.

The proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

Regarding the commenter's statements on religious liberty, nothing in the proposed

amendments alters the protections afforded by NJLAD, the protections afforded by Art. I, Par. 4 of the New Jersey Constitution, and the protections afforded by the First Amendment to the United States Constitution, as applied through the Fourteenth Amendment, as it pertains to religious beliefs or religious liberty. The Department cannot adopt any policy, rule, or regulation that establishes a preference for any religious sect or belief.

190. Comment: The commenters stated that gender dysphoria is not the same as actually becoming the opposite sex. The commenters stated that the proposed amendments are broad, overbearing, will confuse children, erase gender, strip parental rights, silence religious liberty, and will place LGBTQIA+ rights above all. The commenters stated that if the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is adopted, the Department will be prohibiting the free exercise of religious liberty of students, teachers, and staff in every New Jersey public school. (33, 46, 53, 65, 68, 80, 88, 89, 94, 98, 101, 111, 115, 122, 123, 127, 149, 151, 167, 168, 178, 187, 190, 194, 197, 198, 199, 204, 214, 220, 239 through 297, 300 through 311, 315, 316, 317, 320, 321, 324, 350, 353, 371, 375 through 383, 404, 406, 409, 410, 411, 423, 486, 487, 488, 489, 491, 500, 501, 502, 503, 544, 554, 565, 573, 789, 795, 798, 799, and 803)

Response: The Department disagrees that the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i places the rights of LGBTQIA+ individuals above all others. Rather, the proposed amendment recognizes and implements the legal rights of transgendered individuals. The proposed amendments throughout N.J.A.C. 6A:7 are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any

protected category set forth at N.J.S.A. 10:5-1 et seq. Generally, N.J.A.C. 6A:7-1.7(b)2 requires district boards of education to ensure that courses are not offered separately based on any of the protected categories, including sex and gender identity or expression.

As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception to the prohibition against segregating course classes on the basis of a protected class that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. A school district is not required to hold separate sessions and can continue to develop health education curriculum based upon the school district's curriculum development and review process. All locally adopted instructional materials must be aligned to the school district's curriculum as a whole and the NJSLS. Curriculum is required to be current, medically accurate, developmentally and age-appropriate, and developed and selected through meaningful and ongoing consultation with the school community. Given the ability of school districts to align their curricula to local needs, any issues raised can be addressed at the local level when decisions are made regarding whether to hold separate sessions on this subject matter.

This is consistent with both State and Federal law. See Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>; and N.J.S.A. 18A:36-41. Further, in July 2022, the United States Department of Education recently set forth that a 2014 guidance issued by the Department's Office for Civil Rights remains effective (see 87 Fed. Reg. 41,390, 41,529 (2022)). Under that guidance, a recipient of funds from the United States Department of

Education must treat transgender students consistent with their gender identity in all aspects of the planning, implementation, enrollment, operation, and evaluation of single-sex classes. For these reasons, the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i are both consistent with and required by State and Federal law.

191. Comment: The commenter stated that, if the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i is implemented, biological boys will be taught that they can menstruate and biological girls can produce sperm, which the commenter stated is not an environment for excellent outcomes. The commenter also stated that the Department cited the *Bostock v. Clayton County* case as support for this proposed amendment, but the case has likely been superseded by the 11th Circuit Court of Appeals opinion in *Adams v. School Board of St. Johns County*. (33)

Response: The Department disagrees. Separating students for class sessions on human sexuality on the basis of sex assigned at birth or biological sex without regard to their expressed gender identity would likely violate State and Federal law.

The Department disagrees with the commenter that *Adams ex rel. Kasper v. School Board of St. Johns County, Florida* supersedes the U.S. Supreme Court's decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

Lastly, if students are separated by gender identity, educators are still required to teach factually accurate information.

192. Comment: The commenter questioned whether the Department seeks to erase the fact that there are only two sexes based upon XY and XX chromosome combinations, as described in *Webster's International Dictionary, Unabridged*. The commenter also questioned whether the Department seeks to exclude gender-specific education regarding health, personal hygiene, and sexuality. (245)

Response: As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited

exception that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. A school district is not required to hold separate sessions. If students are separated for class sessions that exclusively deal with human sexuality, it must be done in accordance with State and Federal law, meaning that the assignment to a class session that is divided by gender must be done based upon the student's expressed gender identity.

The proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

The Department is not proposing to eliminate education regarding health, personal hygiene, and sexuality that is gender specific as it is a required component of the NJSLS-CHPE adopted in 2020.

193. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i and the readoption of N.J.A.C. 6A:7-1.7(d)1. The commenters stated that the change in definitions and the requirements is a clear stripping of family values, religious liberty, and parental rights. The commenters stated the proposed amendments are harmful and dangerous for all biological female students. The commenters further stated that girls should not be forced to take health class with biological boys. The commenters also stated that biological males should not be permitted to participate in girls' sports or be in girls' locker rooms. (20 and 21)

Response: The Department disagrees. Nothing in the proposed amendments at N.J.A.C. 6A:7-1.7(b)2i or existing N.J.A.C. 6A:7-1.7(d)1 alters the protections afforded by the NJLAD, Art. I, Par. 4 of the New Jersey Constitution, and the First Amendment to the

United States Constitution, as applied through the Fourteenth Amendment to the United States Constitution. Furthermore, the Department cannot adopt any policy, rule, or regulation that establishes a preference for any religious sect or belief.

The proposed amendments at N.J.A.C. 6A:7-1.7(b)2i and (d)1 are the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. Generally, N.J.A.C. 6A:7-1.7(b)2 requires district boards of education to ensure that courses are not offered separately based on any of the protected categories, including sex and gender identity or expression.

As proposed for amendment, N.J.A.C. 6A:7-1.7(b)2i is a narrow and limited exception that permits school districts, if they so choose, the ability to hold separate sessions based on gender identity that are developmentally appropriate portions of classes dealing exclusively with human sexuality, provided that the course content for the sessions is the same. A school district is not required to hold separate sessions and can continue to develop health education curriculum based upon the school district's curriculum development and review process.

In accordance with the Department's Transgender Student Guidance for School Districts, all students are entitled to have access to restrooms, locker rooms, and changing facilities in accordance with their gender identity to allow for involvement in various school programs and activities. In all cases, the school principal must work with the student and staff so all parties are aware of facility policies and understand that the student may access the restroom, locker room, and changing facility that corresponds to

the student's gender identity. Additionally, guidance issued by the New Jersey Division of Civil Rights is consistent with the Department's guidance.

194. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.7(b)6 and to proposed new N.J.A.C. 6A:7-1.7(b)7. The commenters stated that the Holocaust was the persecution and murder of six million European Jews by the Nazi regime. The commenters also stated that the comparison of Jews killed and tortured in the Holocaust with members of the LGBTQIA+ community is a travesty, a perversion of history, and a mockery of truth and of the religious liberty that the United States was founded upon. (55, 67, 88, 94, 98, 101, 122, 116, 127, 130, 133, 150, 154, 165, 168, 178, 181, 187, 194, 251, 271, 275, 323, 324, 411, 412 through 417, 421, 423, and 425)
- Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7-1.7(b)6 and proposed new N.J.A.C. 6A:7-1.7(b)7 are in alignment with existing curricular mandates pursuant to N.J.A.C. 6A:7. N.J.S.A. 18A:35-28 requires that every district board of education include instruction on the Holocaust and genocides in the appropriate place in the curriculum of all elementary and secondary schools, which will emphasize, among other things, the personal responsibility that each citizen bears to fight racism and hatred whenever and wherever it happens. N.J.S.A. 18A:35-4.35 requires that every district board of education include instruction on the political, economic, and social contributions of persons with disabilities and LGBTQ people in an appropriate place in the curriculum of middle school and high school students.
195. Comment: The commenters objected to the proposed amendment at N.J.A.C. 6A:7-1.7(b)6 and to proposed new N.J.A.C. 6A:7-1.7(b)7. The commenters stated that the amendments at N.J.A.C. 6A:7 are designed to force one ideology into every single aspect of the New Jersey public school system, as well as every sports program and outside organization that meets in school district facilities. The commenters also stated that the

amendments at N.J.A.C. 6A:7 mandate that everyone succumb to a false doctrine and dogma that glorifies the LGBTQ lifestyle and teach students that people are less or greater than based upon the color of their skin or sexual identity. The commenters further stated that the amendments at N.J.A.C. 6A:7 are not education, but indoctrination. (55, 67, 88, 94, 98, 116, 127, 130, 133, 150, 154, 165, 178, 181, 187, 251, 275, 323, 410, and 412 through 416)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7-1.7(b)6 and proposed new N.J.A.C. 6A:7-1.7(b)7 are an alignment of N.J.A.C. 6A:7 to the current terminology and to existing curricular mandates. N.J.S.A. 18A:35-28, requires that every district board of education include instruction on the Holocaust and genocides in the appropriate place in the curriculum of all elementary and secondary schools, which, among other things, will emphasize the personal responsibility that each citizen bears to fight racism and hatred whenever and wherever it happens. N.J.S.A. 18A:35-4.35 requires that every district board of education include instruction on the political, economic, and social contributions of persons with disabilities and LGBTQ people, in an appropriate place in the curriculum of middle school and high school students. Nothing within the proposed amendment at N.J.A.C. 6A:7-1.7(b)6 and at proposed new N.J.A.C. 6A:7-1.7(b)7 forces an ideology.

Permitting discrimination based upon sexual orientation, gender identity, or gender expression, and continuing to allow for the continuance to the societal barriers faced by the LGBTQIA+ community would be a dereliction of the Department's obligations and the authority granted to it by the New Jersey Legislature, which is required by Art. VIII, Sec.. IV, Par. 1 of the New Jersey Constitution to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children between the ages of five and 18 years. All students entitled to a

thorough and efficient system of education includes members of the LGBTQIA+ community.

The commenter's statements connecting the statutorily mandated inclusion of the Commission on Holocaust Education's curriculum to an ideology or agenda regarding the LGBTQIA+ community is inaccurate. The proposed amendment at N.J.A.C. 6A:7-1.3 will clarify the purpose of the Commission on Holocaust Education's curriculum. The New Jersey Legislature required instruction regarding the historical and societal impact of members of the LGBTQIA+ community through the enactment of P.L. 2019, c. 6 (N.J.S.A. 18A:35-4.35 and 4.36).

196. Comment: The commenters objected to proposed new N.J.A.C. 6A:7-1.7(b)7, which will require district boards of education to ensure 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. The commenters specifically objected to curriculum related to the LGBTQIA+ community. The commenters stated that this mandate calls for curriculum to be developed by organizations other than school districts and to be administered with curriculum associated with African American and Holocaust education, implying that the LGBT community is similarly victimized. The commenters also stated that this is indoctrination and that being LGBTQIA+ is a lifestyle, not an immutable characteristic such as race, and should not be taught otherwise. (94, 269, 464, 465, 467, 481, and 809)
- Response: The Department disagrees. P.L. 2019, c. 006, which is codified at N.J.S.A. 18A:35-4.35 to 4.36, was signed into New Jersey law. The correct requirements for N.J.S.A. 18A:35-4.35 expects that every district board of education include instruction on the political, economic, and social contributions of persons with disabilities and lesbian,

gay, bisexual, and transgender people, in an appropriate place in the curriculum of middle school and high school students. N.J.S.A. 18:35-4.36 requires that every district board of education have policies and procedures in place pertaining to the selection of instructional materials required by N.J.S.A. 18A:35-4.35, with said instructional materials portraying the cultural, economic diversity of society including the political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people, where appropriate. The purpose of this law is not to teach the victimization of the protected group but, as stated, their contributions to society.

197. Comment: The commenter requested that the Department clarify what “adequate and appropriate counseling” means at N.J.A.C. 6A:7-1.7(c). The commenter cited statistics from Paterson Public Schools showing that, in 2015, there were 13 student assistance coordinators (SACs) for nearly 30,000 students. The commenter stated that Paterson Public Schools currently has only seven SACs for 26,000 students. The commenter stated that Paterson Public Schools did not list any corrective actions or schools that were out of compliance in the last CEP. The commenter also stated that the Department’s current proposals for professional development and practices pose a serious compromise to access. The commenter suggested that the correlation between risk factors and services associated with historically marginalized communities be highlighted when determining what is adequate and appropriate. (27)

Response: N.J.A.C. 6A:7-1.7 specifically requires each district board of education to provide all students with equal and bias-free access to all school facilities, courses, programs, activities, and services. The section also requires district boards of education to ensure all students have access to adequate and appropriate counseling services and equitable and co-educational physical education and athletic programs. The affirmative action team for each school district must determine what is adequate and appropriate

counseling services for the student population during the needs assessment and subsequent evaluation of the CEP.

198. Comment: The commenter objected to the repeal of references to athletic programs at N.J.A.C. 6A:7-1.7(d). The commenter stated that the language is required by State and Federal law. (27)

Response: The Department disagrees. The language proposed for deletion at N.J.A.C. 6A:7-1.7(d) is not required by State or Federal law.

199. Comment: The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.7(d). The commenter stated that the use of restrooms, locker rooms, and other facilities should be based upon biological gender. (53)

200. Comment: The commenter expressed concern regarding N.J.A.C. 6A:7-1.7(d)1. The commenter stated that providing separate restrooms, locker rooms, and shower facilities according to gender, which is a protected category at N.J.A.C. 6A:7-1.1, should be assigned according to birth gender as has been done for generations. (166)

Response to Comments 199 and 200: The Department disagrees. If students are separated and are provided with separate restrooms, locker rooms, and shower facilities, it must be done in accordance with State and Federal law. Meaning that the assignment of separate facilities must be done based upon the student's expressed gender identity. Permitting school districts to assign students to separate facilities based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

In accordance with the Department's Transgender Student Guidance for School

Districts, all students are entitled to have access to restrooms, locker rooms, and changing facilities in accordance with their gender identity to allow for involvement in various school programs and activities. In all cases, the school principal must work with the student and staff so all parties are aware of facility policies and understand that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity. Additionally, guidance issued by the New Jersey Division of Civil Rights is consistent with the Department's guidance.

The protections afforded to members of the LGBTQIA+ community, as incorporated at N.J.A.C. 6A:7, are consistent with NJLAD and the policies explicitly set forth and underlying the Governor's Executive Order Number 326, dated April 4, 2023, which specifically notes that the State of New Jersey is one of the first states in the country to explicitly prohibit discrimination based on sexual orientation, gender identity, and gender expression, and that the State seeks to address societal barriers to equality faced by the LGBTQIA+ community.

201. Comment: The commenters objected to the proposed amendments at N.J.A.C. 6A:7-1.7(d)2 to replace "two sexes" or "both sexes" with "based on sex" and "all sexes" respectively. (33, 40, 46, 55, 64, 68, 70, 71, 72, 76, 77, 82, 84, 88, 89, 94, 97, 98, 100, 101, 103, 105, 108, 127, 129, 135, 143, 145, 146, 149, 150, 153, 160, 161, 166 through 218, 220, 221, 224 through 231, 233, 234, 235, 236, 269, 294, 312, 318, 322, 324, 338, 353, 371, 385 through 394, 396, 399, 407, 409, 411, 423, 425, 464, 465, 466, 467, 469, 470, 471, 473, 474, 475, 476, 477, 481, 484, 485, 488, 492, 493, 497, 498, 499, 501, 503, 543, 548, 570, 571, 574, 575, 795, 806, 807, 809, 811, and 845)

Response: Permitting school districts to operate separate teams based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of

gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression. The Department disagrees and recognizes transgendered people's rights. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

202. Comment: The commenters stated that, scientifically, there are only two sexes as defined by XX or XY chromosomes. The commenters further stated that distorting this fact will create confusion in the minds of students about truth in general and that such a fabrication can make children question their own sexual identity in harmful ways. (94, 269, 464, 465, 467, 481, and 809)

203. Comment: The commenter stated that there are only two sexes because there are only persons who are born with XX or XY chromosomes. The commenter also stated that no child is assigned a sex at birth and that it is a fact that, at conception, a child is either a boy or a girl. (324)

Response to Comments 202 and 203: The Department disagrees with the commenters and recognizes transgendered people's rights. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

204. Comment: The commenter stated that the proposed amendment at N.J.A.C. 6A:7-1.7(d)2 will force female students to play and compete in sports with biological males. The commenter also stated that biological males are stronger, taller, and weigh considerably more than the average female and the proposed amendment would give biological males an unfair competitive advantage while putting female students at risk. (98)

Response: The Department disagrees. As proposed for amendment, N.J.A.C. 6A:7-

1.7(d)2 will permit a school district 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. Permitting school districts to assign students to school districts 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, based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

205. Comment: The commenters stated that the purpose behind the proposed amendments to N.J.A.C. 6A:7-1.7(d)2 is to usher in more confusion and sameness. The commenters also stated that the best interest of the individual is being subjugated to the collective good and this is the hallmark of a society reimagined. (160 and 161)

Response: The Department disagrees. Existing N.J.A.C. 6A:7-1.7(d)2 permits a school to operate separate teams for the two sexes in one or more sports or a single team open competitively to members of both sexes, so long as the athletic program, as a whole, provides equal opportunities for students of both sexes to participate in sports at comparable levels of difficulty and competency. The proposed amendments will replace “two sexes” or “both sexes” with “based on sex” and “all sexes,” respectively, to ensure that the rule captures all gender identities and not only male and female.

206. Comment: The commenter objected to the proposed amendments regarding “sex and gender” throughout N.J.A.C. 6A:7. The commenter objected to the existing definition of “gender identity or expression” at N.J.A.C. 6A:7-1.3 because it states, “person’s assigned sex at birth.” The commenter stated that the children of New Jersey deserve better from its institutions. The commenter also stated that the Department is denying medical, biological, and scientific facts and this agenda will result in destruction. The commenter further stated that children and grandchildren will pay the price for the Department’s self-imposed ignorance. (218)

Response: Please see the Response to Comment 202.

207. Comment: The commenters objected to all proposed amendments regarding sex and gender, including the existing definition of “gender identity or expression” at N.J.A.C. 6A:7-1.3 because it states, “person’s assigned sex at birth.” The commenters stated that there are only two sexes because persons are born with only XX or XY chromosomes. The commenters also stated that denying the reality of biological sex, and conflating biological sex with personality traits, creates a class environment that is not developmentally appropriate, evidence based, or medically accurate. (33, 40, 46, 55, 64, 68, 70, 72, 76, 77, 82, 84, 88, 89, 94, 97, 98, 100, 101, 103, 105, 108, 127, 129, 135, 143, 145, 146, 149, 150, 153, 166 through 217, 220, 224, 225, 226, 227, 228, 239, 230, 231, 233, 234, 235, 236, 291, 294, 312, 318, 322, 324, 338, 353, 371, 385 through 394, 396, and 399, 407, 409, 411, 423, 425, 466, 469, 470, 471, 473, 474, 475, 476, 477, 484, 485, 488, 492, 493, 497, 498, 499, 501, 503, 543, 548, 570, 571, 574, 575, 795, 806, 807, 811, and 845)

Response: Please see the Response to Comment 202.

208. Comment: The commenter stated that the concern regarding the proposed amendments related to biological sex and gender identity remain unaddressed. The commenter asked

the Department to consider the impact of adopting the proposed policy would have on Christians and other faith groups and their sincerely held moral and religious beliefs. The commenter indicated that the commenter would pray that the Department honor the constitutionally protected First Amendment rights and the equitable representation of all faith groups within the chapter. The commenter stated that faith is a protected class and that the public must be able to freely exercise religious beliefs. The commenter stated that any policy that forces Christians or any other faith group to accept and/or be forced into an environment, in a public institution, that contradicts their beliefs is not equitable. (33)

Response: The Department disagrees with the commenter's position regarding biological sex and gender identity. The Department also disagrees that the commenter's personal religious beliefs are a legitimate basis to deny members of the LGBTQIA+ community the dignity and protection of their constitutionally protected rights.

Lastly, nothing in the proposed amendments alters the protections afforded by the NJLAD, Art. I, Par. 4 of the New Jersey State Constitution, and the First Amendment to the Constitution of the United States, as applied through the Fourteenth Amendment as it pertains to the protections afforded to religious beliefs or religious liberty and the free exercise thereof. The Department cannot adopt any policy or regulation that establishes a preference for any religious sect or belief. N.J.A.C. 6A:7, as proposed for readoption with amendments, does not oppress the rights of Christian families.

209. Comment: The commenters stated that Dictionary.com defines "gender" as either the male or female division of a species. The commenters also stated that it is a biological fact that a person is born either male or female based upon anatomy. The commenters further stated that life experiences are subjective and may alter one's own opinion of self, however one's gender is not a biological trait that can be altered. (124, 125, and 126)

Response: Please see the Response to Comment 202.

210. Comment: The commenter stated that the proposed amendments to reference all sexes instead of male and female contradict the New Jersey State Constitution, the Constitution of the United States, and the commenter's religious convictions. The commenter also stated that the current culture has hijacked language to promote an agenda that "moralizes evil" and is engaged in linguistic theft. The commenter further stated that equity will be used to silence Christian families.

The commenter also stated that the proposed amendments subject people to discrimination, particularly Christian teachers and students, and are a violation of their First Amendment rights. The commenter further stated that the rights of the commenter and Christians to practice and live their faith is being oppressed. (40)

Response: The Department disagrees. The proposed amendments do not alter the protections afforded by the NJLAD, Article I, Paragraph 4 of the New Jersey State Constitution, and the First Amendment to the Constitution of the United States, as applied through the Fourteenth Amendment as it pertains to the protections afforded to religious beliefs or religious liberty and the free exercise thereof. The Department cannot adopt any policy or regulation that establishes a preference for any religious sect or belief. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, does not oppress the rights of Christian families.

211. Comment: The commenters stated that the repeal of gendered nouns and pronouns eliminates female and male genders as if they do not exist. The commenters also stated that biologically people are either male or female. The commenters further stated that the elimination of gendered nouns and pronouns would cause confusion for children and violate their basic rights. (98 and 852)

212. Comment: The commenter objected to the proposed deletion of gendered pronouns throughout the chapter because the use of gendered nouns and pronouns is inclusive. The

commenter stated that the Department should not promote rules that change speech patterns, or the English language as commonly used and to do so without a popular vote is offensive, supercilious, and harmful to the State. The commenter also stated that the nine million citizens of the State of New Jersey do not agree with most of the Department's proposed amendments. (46)

Response to Comments 211 and 212: The Department disagrees. The proposed amendments to eliminate gendered nouns and pronouns throughout the chapter and the utilization of more inclusive language reflective of the protective categories or classes, as defined, is consistent with the NJLAD and Federal law (See Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>; and N.J.S.A. 18A:36-41)). N.J.A.C. 6A:7 as proposed for readoption with amendments and repeals is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

213. Comment: The commenters objected to the proposed deletion of gendered pronouns throughout the chapter and the replacement of “equality” with “equity.” The commenters stated that eliminating pronouns is a way to further promote sameness and confuse New Jersey's youth. The commenters also stated that the Department is either denying the existence of a societal transformation or promoting a societal transformation at any cost. (160 and 161)

Response: The Department disagrees. The proposed amendments to eliminate gendered nouns and pronouns throughout the chapter and the utilization of more inclusive language reflective of the protective categories or classes, as defined, is consistent with the NJLAD and Federal law (See Enforcement of Title IX of the Education Amendments of 1972

with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>; and N.J.S.A. 18A:36-41).

The protections afforded to members of the LGBTQIA+ community, as incorporated at N.J.A.C. 6A:7, are consistent with NJLAD and the policies explicitly set forth and underlying the Governor’s Executive Order Number 326, dated April 4, 2023, which specifically notes that the State of New Jersey is one of the first states in the country to explicitly prohibit discrimination based on sexual orientation, gender identity, and gender expression, and that the State seeks to address societal barriers to equality faced by the LGBTQIA+ community.

The Department disagrees regarding the commenters’ objection to the replacement of “equality” with “equity.” The use of the term “equity” throughout N.J.A.C. 6A:7 is in accordance with both the United States Constitution and the New Jersey Constitution. Equity focuses on consistent and systematic access for all students to curriculum, resources, instruction, and environments that sustain opportunities for excellent outcomes. Lastly, N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

214. Comment: The commenter stated that the proposed amendments are not based on medically accurate and evidence-based information. The commenter also stated that students would be taught lies and false information if the proposed rule is adopted, and it would cause harm to young and impressionable children. The commenter further stated that human beings only have XX and XY chromosome combinations and that to deny this fact and the biology that supports it is unconscionable. The commenter also stated that

there are only males and females, and that sex is not assigned at birth. The commenter questioned the authority of the Department to propose the amendments and readopt N.J.A.C. 6A:7. (232)

Response: The Department disagrees with the commenter's generalization regarding the proposed amendments. The proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field.

215. Comment: The commenter objected to the deletion of "male and female" in schools. The commenter stated that the Department does not have the authority to amend N.J.A.C. 6A:7 in this manner and that the proposed amendment is a complete abomination of everything that the people know to be true. The commenter stated that the commenter follows biology and not ideology. (237)

Response: The Department disagrees. The proposed rules do not delete the use of "male and female" in schools.

The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the discussion, notice of proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

216. Comment: The commenter opposed the replacement of “male and female” with “based on gender identity” at N.J.A.C. 6A:7. The commenter stated that there are biological differences between males and females, and that males and females were created differently and that will never change. The commenter also stated that trying to convince children otherwise is confusing, goes against science, and conflicts with many families’ religious beliefs. The commenter further stated that research shows many children are falling victim to gender dysphoria but instead are diagnosed with autism. and that gender dysphoria is not the same as becoming the opposite sex. The commenter stated that girls should never be forced to learn about female human sexuality in the same classroom as a biological boy.

The commenter also stated that the proposed amendments are broad and overbearing and that they will confuse children, erase gender, strip parental rights, and silence religious liberty. The commenter stated that girls should never be forced to learn about female human sexuality in the same classroom as a biological boy and that teachers should not be put into a position to deny the truth that boys and girls are not the same. The commenter further stated that the Department is attempting to place LGBTQIA+ rights above all others.

The commenter requested that the State Board reject the entire notice of proposal and start over in recognition that equality is a foundational principle and constitutional right of every individual. The commenter stated that the State Board does not have the legislative authority to erase a foundational principle and constitutional right. (116)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 and the repeal of “male and female” from the N.J.A.C. 6A:7 and the usage of “based on gender identity” are the result of changes to State and Federal law and a collaboration with stakeholders who are experts in the field of educational equity. See Enforcement of

Title IX of the Education Amendments of 1972 with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); and N.J.S.A. 18A:36-41.

If students are separated for class sessions that exclusively deal with human sexuality, it must be done in accordance with State and Federal law. Meaning that the assignment to a class session that is divided by gender must be done based upon the student's expressed gender identity. Permitting school districts to assign students to classes based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression. Moreover, N.J.S.A. 18A:36-41.b(8) requires the Commissioner to develop and distribute to school districts guidelines concerning transgender students, including information and guidance permitting transgender students to participate in gender-segregated school activities in accordance with their gender identity.

Lastly, the Department disagrees with the commenter regarding the authority of the Department to propose the readoption with amendments and repeals to the New Jersey Administrative Code, particularly N.J.A.C. 6A:7. The proposed amendments at N.J.A.C. 6A:7 fall well within the State Board's rulemaking authority, pursuant to N.J.S.A. 18A:4-15. The State Board has reviewed the proposed readoption with amendments and repeals at first and second discussion and proposal level, which provided opportunities for public observation. The rulemaking process also provided opportunities for the public to testify before the State Board or to submit written comments throughout the process. The chapter followed the established process for the

discussion, notice of proposal, and adoption of the Department's rules, pursuant to N.J.A.C. 6A:6, the Administrative Procedure Act, and N.J.A.C. 1:30.

217. Comment: The commenter stated that the Department's notice of proposal is missing critical information regarding gender ideology. The commenter also stated that the Department has responded to public comments by repeatedly citing State and Federal law as the basis for proposed amendments at N.J.A.C. 6A:7. The commenter stated that the proposed amendments redefine the concept of gender and that the Department is adopting an ideology by replacing "male and female" with "gender identity" rather than just following the law. The commenter cited the proposed amendment at N.J.A.C. 6A:7-1.7(b)2i as an example. The commenter stated that, by adopting this ideology, the Department is ignoring a mountain of evidence that contradicts that narrative. The commenter suggested that, even if the Department is following the law, the Department should protest the law or otherwise change it.

The commenter suggested that the Department analyze the research and examine both sides of an argument. The commenter stated that evidence suggests that being transgendered is temporary. The commenter also stated that studies have not established that medical intervention, social transition, or affirmation prevent suicide in transgendered individuals or lead to suicide if not done. The commenter further stated that studies in the field of gender medicine are unreliable. The commenter cited works of the Society for Evidence-Based Gender Medicine (SEGM) and Genspect as countervailing evidence. The commenter requested that the Department stop adopting the language of flawed research and conduct its own research. (71)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's

objective with N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is to ensure equity in education, eliminate discrimination, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, or any protected category set forth at N.J.S.A. 10:5-1 et seq.

The Department is not authorized or otherwise empowered to ignore Federal court precedent or the NJLAD. Likewise, the Department does not have the authority to change State law.

218. Comment: The commenter opposed the proposed amendments in reference to gender.

The commenter asked the Department to leave the language within the New Jersey Administrative Code unchanged or state “male/female only.” (472)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7, including those at N.J.A.C. 6A:7-1.7(b)2i, are the result of changes to State and Federal law and a collaboration with stakeholders who are experts in the field of educational equity. The Department’s objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

219. Comment: The commenter stated that N.J.A.C. 6A:7 has been designed to force one ideology into every aspect of the public school system, including every activity, sports program, and outside organization that meets in school facilities. The commenter further stated that the chapter mandates that everyone succumb to a false doctrine and glorify the LGBTQIA+ lifestyle. The commenter also stated that the proposed amendments are the Garden State Equality’s plan to force its ideology into every public school, policy, staff

training, activity, and lesson plan. (324)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with amendments, is the result of changes to State and Federal law and a collaboration with stakeholders who are experts in the field of educational equity. N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, did not derive from any plan put forth by the Garden State Equality or any other organization or individual. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq. The Department maintains that the continued promotion of equity in all areas of education will sustain opportunities for excellent outcomes for all students.

220. Comment: The commenter requested that the State Board take a step back and listen to constituents and not allow the radicalized minority faction to dictate policy for the State. The commenter stated that America has been on a downward spiral since the 1960s when youth were awakened to the sexual revolution. The commenter also stated that educational institutions are being pressured by both Federal and State governments, activist groups, and powerful politically non-diverse teachers' unions to push certain centralized beliefs and a new set of core values. The commenter expressed disagreement with the new "woke" culture. The commenter stated that many of the proposed amendments will create problems that may take years to recover from and some individuals will not recover. The commenter asked if the proposed amendments are another government overreach. (154)

Response: The Department disagrees. N.J.A.C. 6A:7, as proposed for readoption with

amendments and repeals, is not a government overreach but is the result of changes to State and Federal law and a collaboration with stakeholders who are experts in the field of educational equity. The Department's objective is to ensure equity in education, prevent discriminatory behavior, and narrow the achievement gap by providing equity in educational activities and programs and opportunities for positive student interaction, regardless of housing status, socioeconomic status, immigration status, in addition to any protected category set forth at N.J.S.A. 10:5-1 et seq.

221. Comment: The commenter objected to the indoctrination of students through critical race theory and transgender ideology. The commenter stated that this indoctrination harms many young people across the country. The commenter questioned the change in teaching children that they are born with either XY or XX chromosomes and defining a child as a boy or girl, as well as allowing children to choose their gender from approximately 70 genders. The commenter stated that these ideologies cause serious confusion, which is causing damage to the social and emotional development of children. The commenter also stated that critical race theory is deceptively being taught in schools under the cover of darkness by being interwoven throughout school curricular materials. The commenter further stated that school districts should be teaching children the truth of biology and should return moral development and guidance to their parents. (279)

Response: The Department disagrees. The proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary. The Department and other entities recognize the rights of transgendered individuals.

222. Comment: The commenter questioned and objected to the elimination of gendered nouns and pronouns because they are used in daily life and the deletions do not appear to have a

purpose. (245)

Response: The Department disagrees. The proposed amendments to eliminate gendered nouns and pronouns throughout the chapter and the utilization of more inclusive language reflective of the protective categories or classes, as defined, is consistent with the NJLAD and Federal law (See Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); and N.J.S.A. 18A:36-41). N.J.A.C. 6A:7, as proposed for readoption with amendments and repeals, is the result of changes to the law and a collaboration with stakeholders who are experts in the field of educational equity.

223. Comment: The commenter stated that gender must continue to be defined as biological sex at birth. The commenter urged the Department to do what is right. (314)

Response: The Department disagrees. Biological sex and sex assigned at birth are separate and distinct concepts from gender. “Gender identity” is defined at N.J.S.A. 10:5-5.rr as 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.

224. Comment: The commenter stated that girls matter more than woke ideology. The commenter further stated that girls have lost scholarship opportunities, Olympic titles, and their right to safe spaces at school bathrooms, locker rooms, and beyond. The commenter asked the State Board not to be bullied by “the violent activist trans mob.” (80)

Response: The Department disagrees. The proposed amendments at N.J.A.C. 6A:7 are designed to eliminate gendered nouns and pronouns; utilize more inclusive language reflective of the protected categories or classes as defined pursuant to the NJLAD, streamline and clarify rules, procedures, and operations throughout the chapter, update

terminology to align to provisions throughout Title 6A of the New Jersey Administrative Code, Title 18A of the New Jersey Statutes, and evidence-based practices regarding equity in education, while removing redundant language or sections with the chapter which are covered pursuant to other provisions and laws. The deletion of “gender” at N.J.A.C. 6A:7-1.1(a) does not otherwise remove young girls and young women as a protected class as girls and women are still otherwise protected pursuant to the law within the term “sex” and within the term “gender identity or expression” which both remain at N.J.A.C. 6A:7-1.1(a). Specifically, “gender identity” is defined at N.J.S.A. 10:5-5.rr as 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. Nothing in said definition otherwise diminishes the rights of those who are biological females and have a gender identity or expression which is consistent with their biological sex assigned at birth. Furthermore, nothing in the proposed changes to N.J.A.C. 6A:7 otherwise diminishes the educational and extracurricular activity opportunities of girls and women as the commenter suggests.

The protections afforded to members of the LGBTQIA+ community, as incorporated at N.J.A.C. 6A:7, are consistent with the NJLAD and the policies explicitly set forth and underlie the Governor’s Executive Order Number 326, dated April 4, 2023, which specifically notes that the State of New Jersey is one of the first states in the country to explicitly prohibit discrimination based on sexual orientation, gender identity, and gender expression, and that the State seeks to address societal barriers to equality faced by the LGBTQIA+ community.

225. Comment: The commenter recommended that, prior to making any decisions, the Department should search the Scriptures to know what God has to say. The commenter stated that one day society will all be held accountable for its words, deeds, and actions.

The commenter suggested searching online for “Scripture on gender.” (79)

Response: The Department disagrees. The Department is not permitted to adopt any policy, rule, or regulation that establishes a preference for any religious sect or belief.

The protections afforded by NJLAD, the protections afforded by Article I, Paragraph 4 of the New Jersey Constitution, and the protections afforded by the U.S. First Amendment to the United States Constitution, as applied through the Fourteenth Amendment to the United States Constitution, as it pertains to religious beliefs or religious liberty prohibits such a consideration.

226. Comment: The commenters stated that New Jersey’s students deserve developmentally sound, medically accurate, and evidenced-based education, including the fact that humans have XX chromosomes or XY chromosomes. (313 and 386)

Response: The Department agrees that students deserve developmentally sound, medically accurate, and evidenced-based education. However, the proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

The Department recognizes transgendered people’s rights.

227. Comment: The commenter stated that the Department has made education complicated and convoluted and that the institution of public education has been destroyed. The commenter objected to the proposed amendments at N.J.A.C. 6A:7-1.7(d)2 to replace “two sexes” or “both sexes” with “all sexes.” The commenter stated that, biologically, there are only two sexes, as defined by XX or XY chromosomes. The commenter also stated that the Department should not push on the rest of society, especially children, the “fantasy” that there are other sexes. The commenter further stated that it is an embarrassment and waste of resources, and that people are turning to home schooling and

Catholic education to avoid the Department's insanity. (409)

Response: The Department disagrees. The proposed amendments are based upon medically accurate information. The Department acknowledges that the subject of biological sex is complicated and further acknowledges that both gender and sex are nonbinary.

Regarding the particular objection to N.J.A.C. 6A:7-1.7(d)2, permitting school districts school district to operate separate teams based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f prohibits discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

228. Comment: The commenter stated that LGBTQIA+ students and staff have become the center of educational debate and they feel less safe in schools now than even a few years ago. The commenter expressed support for the commenter's school district's inclusive curriculum and stated that the inclusive curricular mandates have made schools safer, making the students more well-rounded. The commenter further stated that more resources are needed to implement the mandates and asked what the State Board is doing to ensure educators are given the resources to Implement them and that school districts are implementing the mandates. The commenter requested the State Board to strictly enforce the curricular mandates. (355)

Response: The Department agrees that curricular mandates regarding inclusivity are critical. As such, the Department monitors the implementation of these mandates through the NJQSAC. Additionally, resources for all curricular mandates are available through the Department's website or the particular Commission website.

229. Comment: The commenter stated that “[t]rying to be fair to the one or two percent transgenders [sic] changing centuries long moral standards putting males in girls bathrooms” violates the rights of the majority. The commenter also stated that there are better solutions, including having an individual use a private or staff bathroom, or having laws that require men and women to use assigned restrooms. (154)

Response: To the extent that the commenter is objecting to existing N.J.A.C. 6A:7-1.7(d)1 and 2, the rule requires each district board of education to ensure that the school district’s physical education classes are 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) by providing separate restroom, locker room, and shower facilities on the basis of gender, but that are comparable.

If students are provided separate restroom, locker room, and shower facilities, it must be done in accordance with State and Federal law, meaning that the assignment to a class session that is divided by gender or provision of separate facilities must be done based upon the student’s expressed gender identity (See Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021); <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>; and N.J.S.A. 10:5-12.f(1) and 18A:36-41). Permitting school districts to assign students to classes or separate facilities based upon sex assigned at birth or biological sex without regard to their expressed gender identity would not be consistent with State law. N.J.S.A. 10:5-12.f and 18A:36-41 prohibit discrimination on the basis of gender identity, and generally requires a place of public accommodation (including a school), when reasonably separating individuals based on sex, to admit individuals to one or the other group based on their gender identity or expression.

230. Comment: The commenter stated that an Open Public Record Act (OPRA) request for citations related to statements made in Assistant Commissioner Irving's presentation at the March 2023 State Board meeting, but they were not provided. (27)

Response: The comment is outside the scope of the rulemaking.

231. Comment: The commenter stated that Black history is American history. (856)

Response: The Department agrees. 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.

232. Comment: The commenter stated that the State guidelines regarding the Transgender Student Policy exclude parental consent due to the claim that parents will not support and may even harm their children. The commenter stated that children who have been affirmed by their school without their parents' consent and/or knowledge and their parents find that their affirmed minors are attempting suicide oftentimes in the school bathroom and that we will only see more of the same if this continues. The commenter cited that the ACLU previously opposed the administration of drugs to chemically castrate sex offenders but is now advocating for children to be able to take the chemically castrating drugs as puberty blockers. The commenter asked what the Department's position is on this. The commenter further asked if the Department is aware that there are over 15 states in the U.S. who have banned gender affirming surgeries and treatments for minors and why doesn't New Jersey allow these children to grow into adulthood before making this decision. (232)

Response: The comments are out of the scope of this rulemaking.

233. Comment: The commenter stated that the suicide rate of individuals who have medically transitioned is higher than the general public. The commenter also stated that parents need to know about any medical treatment being provided to children and adverse reactions. The commenter further stated that if someone wishes to transition, they can wait until they are over 18 years old. The commenter stated that, as a child, the commenter was a “tomboy,” played sports associated with boys, and had mostly male friends. The commenter also stated that the commenter’s dream of becoming a mother would have been taken away if someone convinced the commenter to transition. (845)
234. Comment: The commenter cited two areas of concern related to school districts defying the Department’s Transgender Student Guidance for School Districts. The commenter stated that one school district is disciplining educators for calling students by their desired pronouns. Another example cited by the commenter are school districts that are adopting policies to require educators to “out” their LGBTQIA+ students to their parents which is in complete disregard to the State’s guidance. The commenter requested the State Board to strictly enforce the Transgender Student Guidance for School Districts. (355)
235. Comment: The commenter inquired whether the Department watched a segment of the HBO television show RealTime with Bill Maher during which Bill Maher discussed equity and equality with Senator Bernie Sanders. (155)
236. Comment: The commenter questioned why the Department is letting LGBTQIA+ activists, which the commenter contends is a very small minority, to direct over-reaching, radical, incorrect changes to an already corrupted propagandized public education. (154)
237. Comment: The commenter requested that the Department “stop ideology” in New Jersey public schools. The commenter stated that it is harming the youth. (468)

238. Comment: The commenter stated that the Department should stop letting all of the sport scholarships be given to biological men. The commenter suggested that the Department let them start a separate league. The commenter also stated that the Department is stripping all the gains for which women have worked so hard. (80)
239. Comment: The commenter stated that the Department should listen to commenters who “advocate for righteous regulations” and not those that are necessarily expressed by the majority. The commenter also stated that the majority is not always right and is often wrong. (362)
240. Comment: The commenters stated that the core ideas and performance expectations in NJSLS-Career Readiness, Life Literacies, and Key Skills (NJSLS-CLKS) Standard 9.4 include “sources,” “evidence,” and “resources.” The commenters stated that as students develop necessary skills and strategies to evaluate sources and recognize bias, the terms referenced in NJSLS-CLKS Standard 9.4 should invoke the engagement of a certified school library media specialist to not only select and curate appropriate sources, but also to provide professional development to fellow educators. (24, 29, 37, 41, 42, 43, 45, and 47)

Response to Comments 233 through 240: The comments are outside of the scope of the rulemaking.

241. Comment: The commenter stated that the commenter resigned as an educator after 18 years due to the 2020 adoption of the NJSLS-CHPE standards and the commenter’s religious beliefs. The commenter also stated that the NJSLS-CHPE were imposed during the COVID-19 pandemic while families were distracted, which the commenter stated is deceitful. The commenter further stated that the teacher shortage is due to the Department’s attempt to indoctrinate students. (40)

Response: The comment is outside the scope of the proposed readoption with amendments and repeals at N.J.A.C. 6A:7.

242. Comment: The commenter stated that, for more than a millennium, the conservative Christian value system advocated by the commenter and the commenter's organization were almost universally accepted by cultures and governments all over the world. The commenter also stated that the values that were generally accepted have been rejected in the last 10 years by the political and educational systems of the world and that people now accept a new definition of human sexuality, relationships, family, and marriage. The commenter further stated that girls are being assaulted in bathrooms and bested in sports by men and boys who now calls themselves women. The commenter also stated that biological males are being allowed into bathrooms and locker rooms where girls cannot be protected. The commenter stated that gender fluidity is being taught in New Jersey in grade two, masturbation is taught in grade five, oral and anal sex are being taught in grade eight, and discussions regarding sexual intercourse are occurring in high school.

The commenter stated that students are being irreparably harmed. The commenter also stated that the State Board is dealing with the problem only by throwing money at it, but funding is not the solution. The commenter further stated that the religious liberty protections pursuant to the First Amendment are not being honored and that this is more than a disagreement regarding sexual values. (362)

Response: As the commenter did not identify a concern at N.J.A.C. 6A:7, the comment is outside the scope of the rulemaking.

243. Comment: The commenter stated that there has been a rise in book challenges in the last few years in the State and that, without intervention, children will be denied high-quality, thought-provoking content. The commenter requested the Department make an effort to afford all children accessibility to high-quality literature. The commenter further stated

that diverse books allow children to feel seen and know that their stories are valued.

Lastly, the commenter stated that diverse literature allows for stories to be told to children who might not have been exposed to them otherwise. (43)

Response: Decisions regarding what materials are purchased and are available in a school library are made by school districts. As such, the concerns raised regarding book challenges and particular books being available in schools are outside the scope of this rulemaking.

244. Comment: The commenter strongly objected to pornographic books in school libraries and curriculum. (111)
245. Comment: The commenter asserted that New Jersey’s public school system is already expensive with kindergarten being provided as part of a free public education. The commenter objected to the inclusion of a preschool as part of the free public education, having stated that the costs to taxpayers are prohibitive. The commenter stated that New Jersey residents have the highest taxes in the nation, and as such, the Department must be financially conscious of this fact. (46)
246. Comment: The commenter expressed concern that the commenter does not receive any information from the school and the teachers and does not know what is taught in school. The commenter stated that the commenter does not want the commenter’s child taught about sex until the child is 13 or 14 years of age and did not want their child to be taught new ideas about gender, including the concept of being transgender, which should only be determined by the child when they are over 21 years of age. (840)
247. Comment: The commenter asserted that the policies of the Biden Administration opened the United States’ borders to all countries has made the situation overwhelming. The commenter stated that the free education for all from the year 1900 was a time when only few individuals were “sneaking into this country illegally” and as a result the judicial

decision about educating these students needs to be challenged as no longer appropriate.

The commenter stated that the judicial decision put a terribly high burden on the backs of New Jersey taxpayers. The commenter also stated that laws that have outlived their usefulness must be changed. (46)

248. Comment: The commenter stated that the State must aim to plan to manage equity, regardless of whether it has funds or the capacity to cultivate equity. The commenter also stated that this is imperative since the State has not acknowledged its failure at desegregation. The commenter asked if the State does not want to provide equity or desegregate. (27)

249. Comment: The commenter stated that race is at the forefront of the issues regarding equity in education for as long as the disproportionality rates persist. The commenter suggested that any proposed amendment to the New Jersey Statute or Administrative Code that is relevant to race should be flagged for extensive discussion and, therefore, a public hearing regarding N.J.A.C. 6A:7 is imperative. (27)

250. Comment: The commenter stated that the commenter discovered, through records responsive to an OPRA request, that a resource titled “Women in the History of New Jersey” (1987) is no longer available from the Department. The commenter questioned why a resource created by a Black woman who worked in the Department’s Office of Equal Educational Opportunity would be disposed of by the Department. (27)

251. Comment: The commenter expressed a concern regarding retention of teaching staff. The commenter stated that a friend who is a Black educator is currently involved in proceedings with the State Board of Examiners. The commenter stated that this person was brutalized by police, consequently criminalized, and forced to enter the Pre-Trial Intervention Program to avoid further abuse. The commenter also stated that the justice system is not impartial, and that the education system plays a role in the lack of

impartiality. The commenter suggested that the Department examine what the State Board of Examiners and the Department considers a “disqualifying event” and suggested that this may be something for the New Jersey Law Revision Commission, if appropriate. (27)

Response to Comments 244 through 251: The comments are outside of the scope of the rulemaking.

252. Comment: The commenters submitted blank correspondence with no comments. (195 and 849)

Response: The commenters failed to comment on a specific provision within N.J.A.C. 6A:7.

253. Comment: The commenter stated do not over govern and stop being unfair and racist. The commenter also stated that parents are the caregivers of their children, and that the commenter’s daughter loves sports and will not be harmed because transgender boys are allowed to play. (846)

Response: The comment is outside the scope of the rulemaking.

Federal Standards Statement

Inclusion of all protected categories will allow district boards of education to develop policies that protect students and staff from inequitable educational environments pursuant to: 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.). There are no other points in the rules where

the rules exceed Federal standards. There are no other Federal laws or regulations that impact the readopted rules and the adopted amendments and repeals.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:7.

Full text of the adopted amendments follows:

Text