

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

The following is the accessible version of the notice of proposal for N.J.A.C. 6A:7. The notice of proposal document includes two sections – [summary](#) and [proposed amendments](#).

## **Education**

### **State Board of Education**

#### **Managing for Equality and Equity in Education**

#### **Proposed Readoption with Amendments: N.J.A.C. 6A:7**

#### **Proposed Repeals: N.J.A.C. 6A:7-1.8 and 1.10**

Authorized By: New Jersey State Board of Education, Angelica Allen-McMillan, Ed.D, Acting Commissioner, Department of Education, Acting Secretary, State Board of Education.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-023.

Submit written comments by June 2, 2023, to:

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The agency proposal follows:

### **Summary**

The Department of Education (Department) proposes to readopt N.J.A.C. 6A:7, Managing for Equality and Equity in Education, with amendments. As the Department has filed this notice of readoption with the Office of Administrative Law on March 2, 2023, the expiration date is extended 180 days to August 29, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2). The chapter

provides rules governing equality and equity in educational programs to guarantee each student equal access to all educational programs, services, and benefits of their school district, regardless of the student's race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. The rules also provide an objective basis for evaluating a school district's progress toward equality and equity in educational programs and provide the basis for district boards of education to identify areas in which technical assistance may be needed. The rules directly ensure school districts provide for students' basic rights to equitable treatment and services, and to a quality education.

N.J.A.C. 6A:7 was adopted as new rules, effective June 2, 2003, and readopted in 2008 and 2015.

As part of the current readoption rulemaking, the Department proposes amendments and repeals to eliminate gendered nouns and pronouns; utilize more inclusive language reflective of protected categories or classes as defined pursuant to the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-12; 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; and remove redundant language or sections within the chapter covered under other provisions and laws.

The Department proposes to amend the chapter heading to delete "Equality and." "Equality" means sameness, uniformity, and equivalence, and focuses on a student's access to educational resources. The Department proposes to delete the term throughout the chapter because "equity," as proposed for amendment, better aligns with current terminology and evidence-based practices in education.

Unless otherwise noted in the Summary, the proposed amendments are to correct statutory or New Jersey Administrative Code citations or for stylistic or grammatical improvement.

The following summarizes the chapter's provisions and the proposed amendments and repeals.

## **Subchapter 1. General Provisions**

### **N.J.A.C. 6A:7-1.1 Purpose**

This section sets forth the purpose of the chapter.

The Department proposes to codify the first and second sentence at N.J.A.C. 6A:7-1.1 as subsection (a) and the last sentence as subsection (b).

The Department proposes amendments to the first sentence at recodified N.J.A.C. 6A:7-1.1(a), which states that the purpose of this chapter is to ensure all students, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, gender identity or expression, religion, disability, or socioeconomic status, are provided equal access to educational programs and services by district boards of education. The Department proposes to add housing status, immigration status, or any protected category, as stated at N.J.S.A. 10:5-1 et seq. The Department also proposes to include the following as protected categories or classes to better align the chapter's purpose with the NJLAD: civil union status, domestic partnership status, genetic information, pregnancy or breastfeeding, sex, atypical hereditary cellular or blood trait of any individual, the nationality of any individual, liability for services in the United States Armed Forces, and the nationality of any individual.

The Department proposes amendments in the second sentence at recodified N.J.A.C. 6A:7-1.1(a), which requires the educational programs to include, in part, high teacher expectations for students learning. Instead, the Department proposes to 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 same amendment is proposed throughout the chapter, where necessary.

The Department proposes amendments, at recodified N.J.A.C. 6A:7-1.1(b), which requires district boards of education to establish policies and procedures for the provision of educational activities and programs for all students, pursuant to laws and statutes that establish the protected categories of individuals covered by this chapter. The Department proposes to delete the references to the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e) and the Equal Pay Act of 1963 (29 U.S.C. § 206(d)) because the Department is proposing to delete N.J.A.C. 6A:7-1.8, Equality in employment contract practices, as described below. Therefore, the Federal laws will no longer apply to the chapter.

#### **N.J.A.C. 6A:7-1.2 Scope**

This section sets forth the entities for which the chapter applies.

The Department proposes amendments at N.J.A.C. 6A:7-1.2, which states the rules specify standards that apply to district boards of education providing general education services to students in preschool through grade 12, special education services to students ages three through 21, or adult education programs, and to charter schools. The Department proposes to add “renaissance school projects” to include all local education agencies (LEAs). The Department also proposes to add that, unless otherwise indicated, “district board of education” and “school district” refer to the governing body of school districts, charter schools, and renaissance school projects. The proposed amendment will clarify that the terms refer to the governing body of all entities that are subject to this chapter's provisions.

#### **N.J.A.C. 6A:7-1.3 Definitions**

The section sets forth the terms and definitions used throughout the chapter.

The Department proposes to amend the definition of “achievement gap,” which means the difference in academic performance among student groups and includes a by race, ethnicity, social and economic status, and student status, as well as examples of student groups. The definition as proposed for amendment, instead, will encompass all of the protected categories listed at N.J.A.C. 6A:7-1.1(a).

The Department proposes to amend the term “African American history curriculum,” which means instructional content, materials, and methods infused into the New Jersey Student Learning Standards (NJSLS) 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 Department proposes to amend the term to “Amistad Commission curriculum.” The Department also proposes to add that the content, materials, and methods referenced were developed in consultation with the Amistad Commission. The definition, as proposed for amendment, will align with the statutory mandates related to the Amistad Commission.

The Department proposes a definition for “chief school administrator” to mean the superintendent, the administrative principal if there is no superintendent, or charter school lead person and renaissance school project administrator.

The Department proposes the term “Commission on Holocaust Education curriculum” to mean instructional content, materials, and methods that were developed in consultation with the New Jersey Commission on Holocaust Education and infused into the NJSLS and that meet the Holocaust/genocide mandate set forth at N.J.S.A. 18A:35-28. The proposed definition also states that 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. The proposed definition will replace the term “Holocaust and genocide curriculum,” which is proposed for deletion. The proposed amendments will more closely align the chapter with the statutory requirements related to Holocaust/genocide education.

The Department proposes to amend the definition of “comprehensive equity plan,” which means a plan designed specifically to ensure an equal educational opportunity is available to all students through the identification and correction of discriminatory and inequitable practices prohibited by State and Federal law. The Department proposes to replace “equal educational opportunity” with “equitable educational opportunity” to align the definition with current terminology and evidence-based 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. The Department proposes the same amendment throughout the chapter, where necessary.

The Department proposes to delete the term “disability” because it is included in the chapter’s purpose, which aligns with the NJLAD-protected categories. Therefore, a definition is unnecessary.

The Department proposes to amend the definition of “discriminatory practices,” which means a policy, action, or failure to act that limits or denies equal access to, or benefits from, the educational activities or programs of a school, or that generates or permits injustice or unfair or otherwise inequitable treatment of students or staff on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. The Department proposes to replace the listed protected categories with

“the protected categories listed at N.J.A.C. 6A:7-1.1(a)” to streamline the definition and align it with N.J.A.C. 6A:7-1.1(a), as proposed for amendment. The Department proposes the same amendment throughout the chapter, where necessary.

The Department proposes to amend the definition of “educational equity,” which means a cohesive set of policies, programs, and practices that ensure high expectations, positive achievement patterns, and equal access to educational opportunity for all learners, including students and teachers. The Department proposes, instead, to state that the cohesive set emphasizes high expectations and achievement and ensures equitable access. The proposed amendment will align the definition with the term “equal,” as proposed for amendment.

The Department proposes to delete the term “employment and contract practices” because the term no longer will be used in the chapter, as proposed for amendment. Labor laws and rules, which fall outside of the Department’s authority, govern the provision of equitable employment and contract practices. Personnel employed by LEAs can file equality in employment and contract practices complaints through local collective bargaining entities or through the New Jersey Division on Civil Rights.

The Department proposes to amend the term “equal educational opportunity” to “equitable educational opportunity.” The Department also proposes to amend the definition, which means the creation of environments that enable the provision of a thorough and efficient education as defined by the NJSL, differentiated instruction, formative assessments aligned to the NJSL, and high expectations for teaching and learning in a public school district; and when prejudice and other forms of discrimination have been eliminated in the school district’s policies, practices, and curricula, as evidenced through the narrowing of the achievement gap; and when all students and staff enjoy equal access to all programs and benefits provided by, or offered within, the



public schools of the school district. The Department proposes to add that “equitable education opportunity” also 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. The proposed amendments will ensure the definition is inclusive of all protected categories.

The Department proposes to delete the term “equality,” which means sameness, uniformity, and equivalence. The definition also states that equality focuses on a student’s access to educational resources. The Department proposes to delete the term throughout the chapter, except in the chapter’s title, because “equity,” as proposed for amendment, better aligns with current terminology and evidence-based practices in education.

The Department proposes to amend the definition for “equity,” which means when all groups of students master the goals of the curriculum to approximately the same degree. The definition also states that equity focuses on students’ access to knowledge. The Department proposes, instead, that the term 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. As proposed for amendment, the definition also will state that 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 will support differentiated instruction and formative assessments aligned to the NJSLs.

The Department proposes to delete the term “national origin,” which means ethnic groups consisting of persons from countries other than the United States of America and reflects a category established by the Federal government that includes persons of the following minority groups: Alaskan Native, Asian, Haitian, Hispanic or Latino, Native American, or Pacific

Islander. Proposed amendments to the list of protected categories or classes that is referenced throughout the chapter will align the rules with the NJLAD; therefore, a definition of one of the protected categories is unnecessary.

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

#### **N.J.A.C. 6A:7-1.4 Responsibilities of the District Board of Education**

The section sets forth the responsibility of the district board of education to adopt and implement written educational equity policies.

The Department proposes an amendment at N.J.A.C. 6A:7-1.4(c), which requires that each district board of education develop, once every three years, a comprehensive equity plan that must identify and correct all discriminatory and inequitable educational and hiring policies, patterns, programs, and practices affecting its facilities, programs, students, and staff. The Department proposes to delete “and hiring” because hiring practices are governed by labor law and rules. The proposed deletion also is consistent with the proposed repeal of N.J.A.C. 6A:7-1.8.

The Department proposes an amendment to the first sentence at N.J.A.C. 6A:7-1.4(c)1, which requires the district board of education to assess, prior to developing the comprehensive equity plan, 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 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 purpose of the needs assessment is to identify and eliminate discriminatory practices and other barriers to achieving equity in educational programs. The Department proposes to delete “and behavioral” before “data” because that type of data is not collected. The Department also proposes to add attendance data. The same amendments are proposed at recodified N.J.A.C. 6A:7-1.8(c)1. The Department further proposes at N.J.A.C. 6A:7-1.4(c)1 to add the following to the types of data that can be considered as part of the school district’s analysis: 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 that may be analyzed prior to developing the comprehensive equity plan and ensure interoperability. The Department proposes, in the second sentence, to delete “and eliminate” as a needs assessment is used to identify inequities and inform the comprehensive equity plan.

The Department proposes to amend N.J.A.C. 6A:7-1.4(c)2ii, which requires the comprehensive equity plan to address equality in school and classroom practices. The Department proposes to add “educational activities and programs” to align the subparagraph to N.J.A.C. 6A:7-1.1, as proposed for amendment. The Department also proposes to delete N.J.A.C. 6A:7-1.4(c)2iii, which requires equality in employment and contract practices, pursuant to N.J.A.C. 6A:7-1.8, because labor laws and rules govern this area.

The Department proposes an amendment at N.J.A.C. 6A:7-1.4(c)3 to add “measurable and actionable” to specify the types of goals, objectives, timelines, and benchmarks for measuring progress that must be included in comprehensive equity plans.

The Department proposes an amendment at N.J.A.C. 6A:7-1.4(c)4, which requires the district board of education to submit the comprehensive equity plan to the executive county superintendent for approval and a copy of the comprehensive equity plan to the Department. The Department proposes, instead, to state the executive county superintendent confirms completion of the plan and to delete the requirement that a copy of the plan be submitted to the Department. The Department also proposes amendments at N.J.A.C. 6A:7-1.4(c)4i, which states that, if the comprehensive equity plan is not approved by the executive county superintendent, the district board of education must revise the plan in accordance with the executive county superintendent’s instructions and to submit the revised plan within 30 days of the notification of non-approval. The proposed amendments will replace references to the executive county superintendent's approval or non-approval with the executive county superintendent’s review of the plan for completion. The proposed amendments will clarify that the district board of education approves the comprehensive equity plan and the executive county superintendent ensures completion.

The Department proposes an amendment at N.J.A.C. 6A:7-1.4(d), which 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 objectives of the comprehensive equity plan. The Department proposes to replace “Department” with “executive county superintendent” to specify to whom the board of education submits the annual statement of assurance. The Department proposes new N.J.A.C. 6A:7-1.4(d)4 to require the chief school administrator to certify in the statement of assurance that the school district has evaluated the comprehensive equity plan for

effectiveness and has submitted a revised comprehensive equity plan to the executive county superintendent, if necessary. The proposed paragraph is necessary because the existing rules do not require school districts to evaluate the effectiveness of their comprehensive equity plans and modify them, as necessary.

#### **N.J.A.C. 6A:7-1.5 Affirmative Action Officer**

The section requires the district board of education to annually designate a member of its staff as the affirmative action officer and to form an affirmative action team to coordinate and implement the chapter's requirements. The section also sets forth the responsibilities assigned to the affirmative action officer and team.

The Department proposes an amendment to the first sentence at N.J.A.C. 6A:7-1.5(a), which requires each district board of education annually to designate a member of its staff as the affirmative action officer and form an affirmative action team, of whom the affirmative action officer is a member, to coordinate and implement the chapter's requirements. The Department proposes to delete "of whom the affirmative action officer is a member" because this responsibility will be relocated to proposed new N.J.A.C. 6A:7-1.5(a)2iv.

The Department proposes new N.J.A.C. 6A:7-1.5(a)3 to state that the affirmative action officer may also serve as the school district's Title IX coordinator to clarify roles the affirmative action officer may also have within the school district. The Department proposes to recodify existing N.J.A.C. 6A:7-1.5(a)3 as new (a)4.

The Department proposes new N.J.A.C. 6A:7-1.5(a)4i to require the affirmative action team to 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 proposes at recodified N.J.A.C. 6A:7-1.5(a)4iv, to delete “with the affirmative action officer” because the affirmative action officer already is a member of the affirmative action team and will collaborate on coordination of professional development training.

#### **N.J.A.C. 6A:7-1.6 Professional Development**

The section requires each district board of education to provide, on a continuing basis, professional development for all school district personnel to identify and resolve problems associated with the student achievement gap and other inequities on the basis of protected categories and classes. The section also requires the Commissioner to provide technical assistance to school districts for the development of policy guidelines, procedures, and in-service training for affirmative action officers.

The Department proposes the same amendments in this section, regarding achievement gap and the protected categories and classes, as described above.

The Department proposes an amendment at N.J.A.C. 6A:7-1.6(a), which 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 the student achievement gap and other inequities arising from prejudice on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. The Department proposes to delete “arising from prejudice” to align to evidence-based practices regarding equity in education and the remainder of the chapter. Inequities must be addressed regardless of the cause.

The Department proposes an amendment at N.J.A.C. 6A:7-1.6(a)1, which requires the professional development to be provided to all certificated and non-certificated staff. The Department proposes, instead, to require the professional development training to be

differentiated based on staff position type and based on the analysis of data conducted pursuant to N.J.A.C. 6A:7-1.4(c)1. The proposed amendments will ensure that all staff receive professional development training necessary to succeed in their respective positions since knowledge and skills needed vary by position, role, and responsibilities.

The Department proposes amendments at N.J.A.C. 6A:7-1.6(a)2, which requires the district board of education to invite parents and other community members to participate in the professional development training. The Department proposes, instead, to require the district board of education to ensure that parents and community members are aware of professional development training provided to school district personnel regarding topics around equity. The proposed amendments ensure that parents and community members receive information regarding topics around equity in an appropriate format separate from professional development training for school district personnel.

The Department proposes amendments at N.J.A.C. 6A:7-1.6(a)3, which requires the district board of education to ensure all new staff are provided within the first year of employment with professional development training on educational equity issues. The Department proposes to replace “within the first year” with “within the first 90 days” to expedite the timeframe during which the district board of education must provide to new staff professional development training on educational equity issues.

### **N.J.A.C. 6A:7-1.7 Equality in School and Classroom Practices**

The 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 the NJSLs 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.

The Department proposes an amendment at N.J.A.C. 6A:7-1.7(a)2, which 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, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status by attaining, within each school, minority representation that approximates the school district's overall minority representation. The regulation also states that exact apportionment is not required; the ultimate goal is a reasonable plan achieving the greatest degree of racial balance that is feasible and consistent with sound educational values and procedures. The Department proposes to replace "racial balance" with "a representative balance" to foster alignment to protected categories and classes. The Department proposes an amendment at N.J.A.C. 6A:7-1.7(a)3, which requires each district board of education to utilize, on an annual basis, a State-approved English language proficiency measure for determining the special needs of English language learners and their progress in learning English. The Department proposes, instead, to require the use of an assessment that evaluates a student's English language proficiency on the four domains of listening, speaking, writing, and reading for determining the eligibility and placement of students who may be identified as multilingual. The proposed amendments will align the regulation with N.J.A.C. 6A:15, Bilingual Education. The proposed amendment also reflects the current use of "multilingual learner" to refer to students whose native language is other than English.



The Department proposes amendments at N.J.A.C. 6A:7-1.7(b)2i, which permits district boards of education to conduct portions of classes that deal exclusively with human sexuality to be conducted in separate developmentally appropriate sessions for male and female students, provided the course content for such separately conducted sessions is the same. The Department proposes to replace “for male and female students” with “based on gender identity.” The proposed amendment will allow portions of classes that deal exclusively with human sexuality to be conducted in separate developmentally appropriate sessions based on gender identity of the students, provided the course content for such separately conducted sessions is the same. The proposed amendment will provide school districts with the necessary level of flexibility in determining how to conduct sessions regarding portions of classes that deal exclusively with human sexuality. The proposed amendment is consistent with NJLAD, Title IX of the Education Amendments of 1972 (Title IX), and [guidance](#) issued by the United States Department of Education’s Office for Civil Rights.

The Department proposes amendments at N.J.A.C. 6A:7-1.7(b)3, which requires each district board of education to ensure its curriculum and instruction reduce or prevent the underrepresentation of minority, female, and male students in all classes and programs, including gifted and talented, accelerated, and advanced classes. The Department proposes, instead, to require the curriculum and instruction to increase and promote equitable representation of all students in all classes and programs. The proposed amendments will use assets-based language, remove gender-specific language, be inclusive of all protected classes and categories for which this chapter applies, and ensure all classes and programs offered by the school district are represented.

The Department proposes amendments at N.J.A.C. 6A:7-1.7(b)5, which requires each district board of education to ensure its curriculum and instruction are infused with African-

American history, as well as the history of other cultures, and taught as part of U.S. history, pursuant to N.J.S.A. 18A:35-1 and the NJSLS. The Department proposes, instead, to require a district board of education to ensure that the curriculum developed by the Amistad Commission is infused into the curriculum and is taught. The Department proposes amendments at N.J.A.C. 6A:7-1.7(b)6, which requires each district board of education to ensure that instruction on the Holocaust and other acts of genocide is included in the curriculum of all elementary and secondary schools, as developmentally appropriate. The Department proposes, instead, to require the Commission on Holocaust Education curriculum to be included in a school district's curriculum. The Department also proposes new N.J.A.C. 6A:7-1.7(b)7 to ensure that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any of the curriculum concerning any of the protected classes listed at N.J.A.C. 6A:7-1.1(a) or curriculum developed by any commission legislatively constituted for the purpose of developing curriculum for any of the protected categories listed at N.J.A.C. 6A:7-1.1(a). The proposed amendments will encompass the curricular mandates related to the Amistad Commission, the Commission on Holocaust Education, as well as other curricular components related to the State's cultural commissions, the LGBTQ community, and individuals with disabilities.

The Department proposes amendments at N.J.A.C. 6A:7-1.7(d), which requires the district board of education to ensure the school district's physical education and athletic programs are equitable and co-educational and do not discriminate on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. The Department proposes to delete the reference to athletic programs because the New Jersey Interscholastic Athletic Association (NJSIAA) regulates athletic programs, not the Department. The Department also proposes to replace "equitable and

co-educational” with “in a co-educational setting that is developmentally appropriate” to ensure that the programs can meet the needs of all categories of protected classes based on students’ developmental needs.

The Department proposes amendments at N.J.A.C. 6A:7-1.7(d)2, which allows a school district to choose to operate separate teams for the two sexes in one or more sports or single teams open competitively to members of both sexes, as 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 Department proposes to replace the references to “two” or “both” sexes with “based on sex” or “all” sexes, respectively, to ensure that the regulation captures all gender identities and not only male and female.

#### **N.J.A.C. 6A:7-1.8 Equality in Employment and Contract Practices**

The section 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. The section also 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. The section further requires district boards of education to ensure equal pay for equal work among members of the school district’s staff.

The Department proposes to repeal the section because its requirements are protected by labor laws and rules.

### **N.J.A.C. 6A:7-1.9 Accountability**

The section requires each district board of education to comply with the chapter's requirements regardless of the rules or regulations of any organization, club, athletic association, or other league or group. The section also requires the comprehensive equity plan to include an assessment of the school district's needs for achieving equity in education programs. The section further stipulates the required contents of the comprehensive equity plan, timelines for its creation and implementation, and possible sanctions if the plan is not implemented within 180 days of approval.

The Department proposes amendments at recodified N.J.A.C. 6A:7-1.8(a) to clarify that the regulation includes any rule or regulation of any "recreational" organization, club, athletic association, or other league or "organizing" group.

The Department also proposes amendments at recodified N.J.A.C. 6A:7-1.8(c)1, which requires the comprehensive equity plan to contain an assessment of the school district's needs for achieving equity in educational programs. The regulation also requires the assessment to include staffing practices, quality-of-program data, stakeholder-satisfaction data, and student assessment and behavioral data disaggregated by gender, race, ethnicity, limited English proficiency, special education, migrant, date of enrollment, student suspension, expulsion, child study team referrals, 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 overrepresentation within certain groups. The Department proposes to replace "limited English proficiency" with "multilingual learner status, homeless status" to align the regulation with N.J.A.C. 6A:15 and 6A:17. The Department also proposes to replace "overrepresentation" with "disproportionality" because the latter is inclusive of both overrepresentation and underrepresentation.

The Department proposes to delete existing N.J.A.C. 6A:7-1.9(d), which requires the comprehensive equity plan shall be written every three years, because the requirement already appears at N.J.A.C. 6A:7-1.4(c).

The Department proposes amendments at recodified N.J.A.C. 6A:7-1.8(d), which requires the district board of education to initiate the comprehensive equity plan within 60 days of its approval and to implement the plan in accordance with the timelines approved by the Department. The Department proposes, instead, to require the district board of education to implement the comprehensive equity plan within 60 days of the executive county superintendent's certification of completion. The proposed amendments will clarify that the executive county superintendent certifies completion of the comprehensive equity plan and each board of education approves the plan.

The Department proposes amendments at recodified N.J.A.C. 6A:7-1.8(e), which states that the Commissioner will impose appropriate sanctions if the district board of education does not implement the comprehensive equity plan within 180 days of the plan's approval date, or fails to report its progress annually. The regulation also states that sanctions may include action to suspend, terminate, or refuse to award continued Federal or State financial assistance, pursuant to N.J.S.A. 18A:55-2. The Department proposes to replace the 180-day deadline with a 60-day timeframe to ensure that school districts are not implementing inequitable practices for up to six months. The Department further proposes to replace the reference to the plan's approval with the executive county superintendent's certification of completion because the Commissioner certifies completion of the comprehensive equity plan through the executive county superintendent.

#### **N.J.A.C. 6A:7-1.10 Appeals**

The section sets forth how to resolve a dispute arising pursuant to the chapter.

The Department proposes to repeal N.J.A.C. 6A:7-1.10, as the provisions already exists at N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for readoption with amendments and repeals provide parents, students, school district officials, and the general public with a concise summary of the legal framework governing equity and problems associated with the opportunity gap in the public schools. As such, the rules proposed for readoption with amendments and repeals identify inequitable practices and define 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 rules proposed for readoption with amendments and repeals provide 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.

### **Economic Impact**

The rules proposed for readoption with amendments and repeals require school districts to hire an affirmative action officer and to create a comprehensive equity plan, which may result in personnel costs to a school district. School districts are also required to address any equity needs identified through a needs assessment, which may require a school district to incur costs depending upon the identified deficiency and cost to remediate. The proposed amendments and

repeals will not change the current economic impact on school districts. School districts receive State aid that may be utilized to fulfill the chapter's requirements.

### **Federal Standards Analysis**

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 rules proposed for readoption with amendments and repeals.

### **Jobs Impact**

The Department anticipates the rules proposed for readoption with amendments and repeals will have no impact upon the generation or loss of jobs in the State. The rules proposed for readoption with amendments and repeals concern school district, charter school, and renaissance school project operations.

### **Agriculture Industry Impact**

The rules proposed for readoption with amendments and repeals will have no impact upon the agriculture industry in the State. The rules proposed for readoption with amendments and repeals concern school district, charter school, and renaissance school project operations.

### **Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments and repeals do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments and repeals impact school districts, charter schools, and renaissance school projects.

### **Housing Affordability Impact Analysis**

There is an extreme unlikelihood that the rules proposed for readoption with amendments and repeals will have any impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the rules proposed for readoption with amendments and repeals would evoke a change in the average costs associated with housing because the rules apply only to school district, charter school, and renaissance school project operations.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments and repeals will have an insignificant impact on smart growth. There is an extreme unlikelihood the rules proposed for readoption with amendments and repeals would evoke a change in housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments and repeals concern school district, charter school, and renaissance school project operations.



## **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

There is an extreme unlikelihood the rules proposed for readoption with amendments and repeals would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed amendments concern school district, charter school, and renaissance school project operations. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:7.

**Full text** of the proposed amendments and repeals follows (additions indicated as boldface **thus**; deletions indicated in brackets [thus]):

### Chapter 7 Managing for [Equality and] Equity in Education

#### **Subchapter 1. General Provisions**

##### 6A:7-1.1 Purpose

- (a) The purpose of this chapter is to ensure all students, regardless of **housing status, socioeconomic status, immigration status, or any protected category as stated at N.J.S.A. 10:5-1 et seq., such as** race, creed, color, national origin, ancestry, age, marital status, **civil union status, domestic partnership status,** affectional or sexual orientation, [gender] **genetic information, pregnancy or breastfeeding, sex,** gender identity or expression, religion, disability, [or socioeconomic status,] **atypical hereditary cellular or blood trait, service in the Armed Forces of the United States, or nationality,** are provided equal access to educational **activities and** programs [and services] by district boards of education. The educational **activities and** programs [and services] 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 [high teacher expectations for student learning] **professional standards for teachers and school leaders.**

- (b) The rules specify standards for district boards of education in establishing policies and procedures for the provision of educational **activities and** programs [and services] for all students, pursuant to: Article I, Paragraph 5 of the New Jersey State Constitution; the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.); N.J.S.A. 18A:35-1 et seq., 18A:36-20, and 18A:38-5.1; Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq. and 2000e et seq.); [the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e);] Title IX of Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.); [the Equal Pay Act of 1963 (29 U.S.C. § 206(d));] Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701 et seq.); and the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.).

#### 6A:7-1.2 Scope

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

### 6A:7-1.3 Definitions

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

“Achievement gap” means the difference in academic performance among student groups [defined, at a minimum, by race, ethnicity, social and economic status, and student status, for example, limited English proficient or students with disabilities and other significant student populations, which may include gender, national origin, affectional or sexual orientation, religion, and marital status] **as a result of membership in one or more of the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

...

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

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

“**Commission on Holocaust Education curriculum**” means instructional content, materials, and methods that were developed in consultation with the New Jersey

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

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

[“Disability” means any physical limitation, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device. “Disability” also means any mental, psychological, or developmental limitation that results from an anatomical, psychological, physiological, or neurological condition and that prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.]

“Discriminatory practices” means a policy, action, or failure to act that limits or denies equal access to, or benefits from, the educational activities [or] **and** programs of a school, or that generates or permits injustice or unfair or otherwise inequitable treatment of students or staff on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual

orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

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

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

["Employment and contract practices" means all policies and practices governing the recruitment, hiring, assignment, evaluation, retention, and promotion of a school's employees, the solicitation and awarding of contracts, and the purchasing of materials and services.]

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

[“Equality” means sameness, uniformity, and equivalence. Equality focuses on a student's access to educational resources.]

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

...

["Holocaust and genocide curriculum" means instructional content, materials, and methods that are infused into the NJSLs and meet the Holocaust/genocide mandate. Materials and curricula are designed to enable students to understand: 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.]

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

["National origin" means ethnic groups consisting of persons from countries other than the United States of America and reflects a category established by the Federal government that

includes persons of the following minority groups: Alaskan Native, Asian, Haitian, Hispanic or Latino, Native American, or Pacific Islander.]

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

"Prejudice" means feelings, opinions, attitudes, or perceptions that produce disparate educational or hiring treatment of, or have adverse educational or hiring impact upon, any person or group of persons on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

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

- (a) Each district board of education shall adopt and implement written educational equity policies that:
1. Recognize and value the diversity of persons and groups within [society] **the community** and promote the acceptance of persons of diverse backgrounds regardless of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a);** and
  2. Promote [equal] **equitable** educational opportunity and foster through the policies, programs, and practices of the district board of education a learning environment that is free from all forms of prejudice, discrimination, and harassment based upon [race, creed, color, national origin, ancestry, age, marital

status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

- (b) (No change.)
- (c) Each district board of education shall develop, once every three years, a comprehensive equity plan that shall identify and correct all discriminatory and inequitable educational [and hiring] policies, patterns, programs, and practices affecting its facilities, programs, students, and staff.
  - 1. Prior to developing the comprehensive equity plan, the district board of education shall assess the school district's needs for achieving equity [and equality] in educational **activities and** programs based on an analysis of [student performance] data [such as] **including, but not limited to**, National Assessment of Educational Progress and State assessment results, preschool-through-grade-12 promotion/retention data, preschool-through-grade-12 completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is [over representation] **overrepresentation** within [certain groups] **the protected categories listed at N.J.A.C. 6A:7-1.1(a);** staffing practices; student demographic [and behavioral] data; **attendance data;** quality of program data; **the Federally mandated Civil Rights Data Collection;** **student access to educational activities and programs; discipline, graduation rate, and postsecondary enrollment; student, staff, and community member interviews; enrollment and scoring in advanced classes; teacher workforce diversity;** and stakeholder satisfaction data. The [purpose of the] needs



assessment [is to] **shall** identify [and eliminate] discriminatory practices and other barriers to achieving equity in educational **activities and** programs, **if applicable**.

2. The comprehensive equity plan shall address:
    - i. Professional development, pursuant to N.J.A.C. 6A:7-1.6; **and**
    - ii. [Equality] **Equity** in school and classroom practices, **educational activities, and programs** pursuant to N.J.A.C. 6A:7-1.7[; and].
    - [iii. Equality in employment and contract practices, pursuant to N.J.A.C. 6A:7-1.8.]
  3. The comprehensive equity plan shall include **measurable and actionable** goals, objectives, timelines, and benchmarks for measuring progress.
  4. The district board of education shall submit the comprehensive equity plan to the executive county superintendent for [approval and a copy of the comprehensive equity plan to the Department] **confirmation of completion**.
    - i. If the **executive county superintendent determines that the** comprehensive equity plan is not [approved by the executive county superintendent] **complete**, the district board of education shall revise the plan in accordance with the **executive county superintendent's** instructions [of the executive county superintendent] and shall submit to the executive county superintendent the revised plan within 30 days of the notification of [non-approval] **incompletion**.
- (d) Each district board of education shall submit to the [Department] **executive county superintendent** at the end of each school year a statement of assurance regarding achieving the objectives of the comprehensive equity plan. The chief school administrator also shall certify in the statement of assurance to the following:

1. – 2. (No change.)
3. The school district will continue to implement its [approved] comprehensive equity plan; and
4. **The school district has evaluated the comprehensive equity plan for effectiveness and has submitted a revised comprehensive equity plan to the executive county superintendent, if necessary.**

[4.] 5. (No change in text.)

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

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

iii. Ensure the school district’s grievance procedures, including investigative responsibilities and reporting information, are followed[.]; **and**

iv. **Serve as a member of the affirmative action team.**

**3. The affirmative action officer may also serve as the school district’s Title IX coordinator;**

[3.] **4.** The affirmative action team shall:

i. **Include, to the extent possible, members who represent the diversity of the school district’s student population;**

[i.] ii. (No change in text);

[ii.] iii. Oversee the implementation of the **school** district's comprehensive equity plan, pursuant to N.J.A.C. 6A:7-1.4(c);

[iii.] iv. Collaborate [with the affirmative action officer] on coordination of the required professional development training for [certificated and non-certificated staff] **all personnel**, pursuant to N.J.A.C. 6A:7-1.6;

Recodify existing iv.-v. as **v.-vi.** (No change in text.)

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

(a) Each district board of education shall provide, on a continuing basis, professional development training for all school personnel to identify and resolve problems associated with the student achievement **and opportunity** gaps and other inequities [arising from prejudice] on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

1. The professional development training shall be [provided to all certificated and non-certificated] **differentiated based on staff position type and shall be based on the analysis of data conducted pursuant to N.J.A.C. 6A:7-1.4(c)1.**
  2. The district board of education shall [invite] **ensure that** parents and other community members [to participate in the] **are aware of** professional development training **provided to school district personnel regarding topics around equity.**
  3. The district board of education shall ensure all new [certificated and non-certificated staff] **personnel** are provided within the first [year] **90 days** of employment with professional development training on educational equity issues.
- (b) The Commissioner or [his or her] **the Commissioner's** designee shall provide technical assistance to school districts for the development of policy guidelines, procedures, and in-service training for affirmative action officers to aid in the elimination of prejudice on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**

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

- (a) Each district board of education shall provide all students with [equal] **equitable** and bias-free access to all school facilities, courses, programs, activities, and services, regardless of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a),** by:
1. Ensuring [equal and] barrier-free access to all school and classroom facilities;

2. Attaining, within each school, minority representation that approximates the school district's overall minority representation. Exact apportionment is not required; the ultimate goal is a reasonable plan achieving the greatest degree of [racial] **a representative** balance that is feasible and consistent with sound educational values and procedures;
  3. Utilizing, on an annual basis, a State-approved English language proficiency [measure] **assessment that evaluates a student's English language proficiency on the four domains of listening, speaking, writing, and reading** for determining the [special needs] **eligibility and placement** of [English language] **students who may be identified as multilingual** learners [and their progress in learning English], pursuant to N.J.A.C. 6A:15-1.3[(b)](a)**3**;
  4. (No change.)
  5. Ensuring support services, including intervention and referral services and school health services, pursuant to N.J.A.C. 6A:16, are available to all students; and
  6. (No change.)
- (b) Each district board of education shall ensure the school district's curriculum and instruction are aligned to the New Jersey Student Learning Standards (NJSLS). The district board of education also shall ensure its curriculum and instruction address the elimination of discrimination by narrowing the achievement **and opportunity** gaps, by providing equity in educational **activities and** programs, and by providing opportunities for students to interact positively with others regardless of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a)**, by:

1. Ensuring there are no differential requirements for completion of course offerings or programs of study solely on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a)**;
2. Ensuring courses shall not be offered separately on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a)**;
  - i. Portions of classes that deal exclusively with human sexuality may be conducted in separate developmentally appropriate sessions [for male and female students] **based on gender identity**, provided the course content for such separately conducted sessions is the same;
3. [Reducing or preventing the underrepresentation] **Increasing and promoting equitable representation** of [minority, female, and male] **all** students in all classes and programs[, including gifted and talented, accelerated, and advanced classes];
4. (No change.)
5. Ensuring [African-American history, as well as the history of other cultures,] **the Amistad Commission Curriculum** is infused into the curriculum and **is** taught [as part of U.S. history, pursuant to N.J.S.A. 18A:35-1 and the NJSLs]; [and]
6. Ensuring [instruction] **the Commission** on [the] Holocaust [and other acts of genocide] **Education curriculum** is included in the curriculum of all elementary and secondary schools, as developmentally appropriate, pursuant to N.J.S.A. 18A:35-28[.]; **and**

7. **Ensuring that all curricular requirements pursuant to N.J.A.C. 6A:8 and the NJSLS are taught, including any curriculum developed concerning any of the protected categories listed at N.J.A.C. 6A:7-1.1(a) or curriculum developed by any commissions constituted for the development of curriculum concerning any of the protected categories listed at N.J.A.C. 6A:7-1.1(a).**
- (c) The district board of education shall ensure all students have access to adequate and appropriate counseling services.
1. When informing students about possible careers or professional or vocational opportunities, the district board of education shall not restrict or limit the options presented to students on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**
  2. The district board of education shall not use tests or guidance or counseling materials that are biased or stereotyped on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a).**
- (d) The district board of education shall ensure the school district's physical education [and athletic programs are equitable and] **is in a co-educational setting that is developmentally appropriate** and does not discriminate on the basis of [race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status] **the protected categories listed at N.J.A.C. 6A:7-1.1(a),** as follows:

1. (No change.)
2. A school **district** may choose to operate separate teams [for the two sexes] **based on sex** in one or more sports or single teams open competitively to members of [both] **all** sexes, as long as the athletic program as a whole provides equal opportunities for students of [both] **all** sexes to participate in sports at comparable levels of difficulty and competency; and
3. (No change.)

[6A:7-1.8 Equality in employment and contract practices

- (a) Each district board of education shall ensure all persons, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status, have equal and bias-free access to all categories of employment in the State's public educational system, pursuant to N.J.A.C. 6A:7-1.1.
- (b) A district board of education shall not enter 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, either in employment practices or in the provision of benefits or services to students or employees, pursuant to N.J.A.C. 6A:7-1.1.
- (c) A district board of education shall not assign, transfer, promote, or retain staff, or fail to assign, transfer, promote, or retain staff, on the sole basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status, pursuant to N.J.A.C. 6A:7-1.1.
- (d) The district board of education shall ensure equal pay for equal work among members of the school district's staff, regardless of race, creed, color, national origin, ancestry, age,



marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status, pursuant to N.J.A.C. 6A:7-1.1.]

6A:7-[1.9]1.8 Accountability

- (a) The district board of education's obligation to be accountable for the chapter's requirements is not precluded or alleviated by any rule or regulation of any **recreational** organization, club, athletic association, or other league or **organizing** group.
- (b) Each school district shall complete a comprehensive equity plan that includes a cohesive set of policies, programs, and practices that ensure high expectations, positive achievement patterns, and [equal] **equitable** access to [education opportunity] **educational opportunities** for all learners, including students and teachers.
- (c) [A] **The** comprehensive equity plan shall include the following:
  - 1. An assessment of the school district's needs for achieving equity in educational **activities and** programs. The assessment shall include staffing practices, quality-of-program data, stakeholder-satisfaction data, and student assessment [and behavioral] data disaggregated by gender, race, ethnicity, [limited English proficiency] **multilingual learner status, homeless status**, special education, migrant, date of enrollment, student suspension, expulsion, child study team referrals, preschool-through-grade-12 promotion/retention data, preschool-through-grade-12 completion rates, **attendance data**, and re-examination and re-evaluation of classification and placement **process** of students in special education programs if there is [overrepresentation] **disproportionality** within certain groups;
  - 2. (No change.)
  - 3. Progress targets for closing the achievement **and opportunity** gaps;

4. Professional development targets regarding the knowledge and skills needed to provide a thorough and efficient education as defined by the New Jersey Student Learning Standards (NJSLS), differentiated instruction, and formative assessments aligned to the NJSLS and [high expectations for teaching and learning] **professional standards for teachers and school leaders**; and
5. (No change.)

[(d) The comprehensive equity plan shall be written every three years.]

[(e)] **(d)** The district board of education shall [initiate] **implement** the comprehensive equity plan within 60 days of [its approval, and shall implement the plan in accordance with the timelines approved by the Department] **the executive county superintendent's certification of completion.**

[(f)] **(e)** If the district board of education does not implement the comprehensive equity plan within [180] **60** days of the [plan's approval] **executive county superintendent's certification of completion** date, or fails to report its progress annually, sanctions deemed to be appropriate by the Commissioner or [his or her] **the Commissioner's** designee shall be imposed. Sanctions may include action to suspend, terminate, or refuse to award continued Federal or State financial assistance, pursuant to N.J.S.A. 18A:55-2.

#### [6A:7-1.10 Appeals

Pursuant to N.J.S.A. 18A:6-9, any individual may petition the Commissioner in writing to resolve a dispute arising under the chapter, pursuant to procedures set forth in N.J.A.C. 6A:3, Controversies and Disputes.]