

**STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM**

This comment and response form contains comments from the May 4, 2016, State Board meeting when the draft regulations were considered at Second Discussion Level.

Topic: Programs to Support Student Development

Meeting Date: July 13, 2016

Code Citation: N.J.A.C. 6A:16

Level: Proposal

Division: Learning Supports and Specialized Services

Completed by: Office of Student Support Services

Summary of Comments and Agency Responses:

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

- A. Joseph Fisicaro, Vice President
State Board of Education
- B. Edithe Fulton, Member
State Board of Education
- 1. Gerard M. Thiers, Executive Director
ASAH
- 2. Anna Hanzes, Associate Director, Government Relations
New Jersey Education Association
- 3. David Nash, Director, LEGAL ONE
New Jersey Principals and Supervisors Association
- 4. John Burns
New Jersey School Boards Association
- 5. Michael A. Vrancik, Director, Governmental Relations
New Jersey School Boards Association
- 6. Patricia Wright, Chairperson
Anti-Bullying Task Force
- 7. Cheryl Bernstein
Florham Park Public Schools
- 8. Dr. Frank DeBerardinis
Voorhees Board of Education

9. Michael Gaskell, Principal
10. Cristina Stefani-Rackow, District Board of Education Member
Edgewater School District

1. **COMMENT:** The commenter seeks clarification as to whether the harassment, intimidation, or bullying (HIB) process is being used by some district boards of education to address all discipline incidents. **(A)**

RESPONSE: Discipline is addressed as part of the student conduct regulations that focus on positive behavioral expectations along with consequences for unacceptable behaviors. HIB is included in the code of student conduct. It is not necessary for district boards of education to utilize the HIB process in addressing all reported discipline incidents. However, district boards of education may include the HIB process in their code of student conduct. The Department does not collect information on whether district boards of education utilize the HIB process for all discipline incidents.

2. **COMMENT:** The commenter expressed the challenges educators face in addressing bullying when youth, particularly girls, shun other youth. The commenter also remarked this behavior has been difficult for a teacher to identify, but said she believes the Administrative Code references may assist teachers in addressing this type of bullying. **(B)**

RESPONSE: The *Anti-Bullying Bill of Rights Act* (ABR) heightened awareness that behaviors that constitute HIB need to be addressed and must be reported. Schools are also required to provide staff training to support them in preventing and identifying HIB.

3. **COMMENT:** The commenter expressed support for the proposed rules at N.J.A.C. 6A:16. **(10)**

RESPONSE: The Department appreciates the commenter's support.

4. **COMMENT:** The commenters sought clarification as to whether county special services school districts, renaissance schools, and recovery high schools are covered in the scope at N.J.A.C. 6A:16-1.2. **(4, 5)**

RESPONSE: N.J.A.C. 6A:16-1.2 includes all students in kindergarten through grade 12 in New Jersey public school districts, charter schools, jointure commissions, educational services commissions, and approved private schools for students with disabilities (PSSDs) acting under contract to provide educational services on behalf of school districts. County special services school districts are public school districts and recovery high schools are operated by district boards of education; therefore, both are subject to rules at N.J.A.C. 6A:16. Renaissance schools are considered public schools pursuant to N.J.S.A. 18A:36C-7.a and, therefore, must fulfill the requirements of N.J.A.C. 6A:16.

5. **COMMENT:** The commenters suggested an amendment at N.J.A.C. 6A:16-7.7(a)2 to replace "it" with "the policy" to mirror the statutory language at N.J.S.A. 18A:37-15.b. **(4, 5)**

RESPONSE: The Department agrees with the commenters and proposes at N.J.A.C. 6A:16-7.7(a)2 to replace "it" with "the policy" as follows:

2. Each district board of education shall have control over the content of the policy, except that [[it]] **the policy** shall contain, at a minimum, the following components:

6. **COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:16-7.7(a)2iii, which will require a district board of education’s HIB policy to include a statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance. The commenter stated that recognition of a real or perceived imbalance in power is an important concept and useful in determining whether HIB has occurred. (3)

RESPONSE: The Department appreciates the commenter’s support.

7. **COMMENT:** The commenters expressed strong support for proposed N.J.A.C. 6A:16-7.7(a)2ix(1), which will permit the procedure set forth in the district board of education HIB policy to include a process by which the principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of HIB, pursuant to N.J.S.A. 18A:37-14. (7, 9)

RESPONSE: The Department appreciates the commenters’ support.

8. **COMMENT:** The commenters expressed concern about proposed N.J.A.C. 6A:16-7.7(a)2ix(1), which will permit the procedure set forth in the district board of education HIB policy to include a process by which the principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of HIB, pursuant to N.J.S.A. 18A:37-14, prior to initiating an investigation. The commenters recommended the adoption of language presented to the Department in a joint letter from New Jersey Principals and Supervisors Association, New Jersey Association of School Administrators, and New Jersey School Boards Association, which states the school principal “shall initiate the investigation by reviewing the information presented and, utilizing the Threshold Assessment Checklist, determine whether the facts, if true may constitute HIB. When the facts presented, if true, do not satisfy the definition in law, the principal shall handle the matter consistent with the district’s code of student conduct. The principal’s determination shall be forwarded to the superintendent. All other reports shall be referred to the anti-bullying specialist for investigation.” (3, 4, 5, 6)

RESPONSE: Based on the commenters’ concern regarding the preliminary investigation, the Department proposes to clarify proposed N.J.A.C. 6A:16-7.7(a)2ix(1) to indicate the preliminary investigation is part of the investigation required under N.J.S.A. 18A:37-14. The proposed amendment at N.J.A.C. 6A:16-7.7(a)2ix(1) is as follows:

- (1) **The procedure set forth in the district board of education policy may include, as part of the investigation, a process by which the principal, or his/her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying, pursuant to N.J.S.A. 18A:37-14[.,prior to initiating an investigation].**

The Department also proposes to clarify a similar rule at N.J.A.C. 6A:16-7.8(a)3ix(7) for approved PSSDs for consistency. The proposed amendment at N.J.A.C. 6A:16-7.8(a)3ix(7) is as follows:

- (7) **The procedure set forth in the approved PSSD policy may include, as part of the investigation, a process by which the full-time non-teaching principal, or his/her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:16-7.8(a)3ii[, prior to initiating an investigation]].**

Additionally, the Department plans to develop a tool the school principal may use, in consultation with the anti-bullying specialist, to assess whether a reported incident or complaint is an act of HIB.

9. **COMMENT:** The commenters expressed concern the ABR does not permit the school principal or his or her designee, in consultation with the anti-bullying specialist, to make a preliminary determination prior to the initiation of an HIB investigation at proposed N.J.A.C. 6A:16-7.7(a)2ix(1). (4, 5)

RESPONSE: Based on the commenters' concern regarding the preliminary investigation, the Department proposes to clarify proposed N.J.A.C. 6A:16-7.7(a)2ix(1) to indicate the preliminary investigation is part of the investigation required under N.J.S.A. 18A:37-14 (see response to Comment 8).

10. **COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:16-7.7(a)2ix(2), which states investigations of complaints concerning adult conduct shall not be investigated by a member of the same bargaining unit as the individual who is subject of the investigation. (Note: N.J.A.C. 6A:16-7.7(a)2ix(2) is being recodified as N.J.A.C. 6A:16-7.7(a)2ix(3)). (3)

RESPONSE: The Department appreciates the commenter's support.

11. **COMMENT:** The commenters thanked the Department for including at N.J.A.C. 6A:16-7.7(a)2xi(1) a timeline of no later than 45 calendar days for which a parent may request a hearing with the district board of education concerning the written information about an HIB investigation after the notice is received by the parents or guardians. The commenters also expressed support for proposed N.J.A.C. 6A:16-7.7(a)2xi(2), which will require the hearing to be held within 10 "business" days of the request. However, the commenters expressed concern as to whether the Department has the authority to require either of the proposed timeframes when the Legislature declined to designate the number of days in which the hearing must be requested or to clarify the 10 day timeframe to hold a hearing as business days. (3, 4, 5)

RESPONSE: The Department thanks the commenters for the support. While not stated in the ABR, it is necessary and appropriate to include a timeframe for a parent to request a hearing with the district board of education to prevent hearing requests long after action was previously taken regarding the HIB investigation. The 10-business-day timeframe was added based on concerns from parents and school administrators as to which days are included in the count that determines when the hearing must be held.

12. **COMMENT:** The commenter expressed concern the requirement to hold a hearing with the district board of education concerning the written information about an HIB investigation within 10 calendar days of the parents’ or guardians’ request for the hearing is not practical. The commenter suggested the Department require the hearing to be held within 10 school days of the request. (8)

RESPONSE: The Department agrees with the commenter that 10 calendar days is not practical. Proposed N.J.A.C. 6A:16-7.7(a)2xi(2) will require the meeting to be held within 10 business days of the request. The Department agrees with the Anti-Bullying Task Force’s recommendation to use business days in this instance, which will permit parents or guardians to request a hearing in the most appropriate timeframe.

13. **COMMENT:** The commenter expressed support for the proposed amendment at N.J.A.C. 6A:16-7.7(h) that will revise the name of the “school safety team” as the “school safety/school climate team” to more accurately reflect the critical work with which the team is charged. (3)

RESPONSE: The Department appreciates the commenter’s support.

14. **COMMENT:** The commenter suggested the Department include at N.J.A.C. 6A:16-7.7(h)1 an educational support professional, such as a paraprofessional, school bus driver, or custodian, as a required member of the newly defined “school safety/school climate team” because the aforementioned staff interact with students in capacities different than teachers or administrators and would provide valuable contributions to the school safety/school climate team. (2)

RESPONSE: The Department agrees including an educational support professional on the school safety/school climate team could provide a valuable contribution to the school safety/school climate team as they interact with students in capacities unlike that of teachers or administrators. Proposed N.J.A.C. 6A:16-7.7(h)1 will not preclude a principal from appointing other members to the school safety/school climate team.

15. **COMMENT:** The commenters expressed concern the proposed regulations for approved PSSDs present legal and practical issues, especially considering the ABR does not apply to approved PSSDs. The commenters asked for clarification as to whether N.J.A.C. 6A:16-7.8(a) applies to out-of-State PSSDs, including when one of the parties to a reported HIB incident is a New Jersey resident and the other is not. If so, the commenters asked through what mechanism the Department intends to enforce the regulation on out-of-State schools. (4, 5)

RESPONSE: It is the responsibility of the sending district board of education to ensure its students in out-of-State PSSDs are provided with safe learning environments and also receive the same education, supports, and services they would in their district of residence. Additionally, out-of-State PSSDs officials annually sign a statement of assurances in their application to the Department stating they will comply with New Jersey legal and regulatory requirements. Therefore, even if only one student attending an out-of-State PSSD involved in a reported HIB incident is from New Jersey, the out-of-State PSSD is responsible for initiating an investigation of an alleged HIB incident, in consultation with the New Jersey sending school district. Furthermore, it is the responsibility of the district board of education contracting with the out-of-state State PSSD to ensure HIB investigations are conducted in compliance with proposed N.J.A.C.

6A:16-7.8 and to take appropriate action if it is determined the out-of-State PSSD is not compliant.

- 16. COMMENT:** The commenters sought clarification as to whether students in approved PSSDs are subject to the sending district board of education's HIB policy when students are being transported to the approved PSSD in a bus contracted by the sending district board of education. The commenters further asked whether students in approved PSSDs would be subject to the PSSD's HIB policy once they arrive at the PSSD and are off the bus. **(4, 5)**

RESPONSE: It is the responsibility of the sending district board of education to ensure its students in approved PSSDs are provided with safe learning environments and also receive the same education, supports, and services the students would in their school district of residence. Therefore, when an alleged HIB incident occurs while transporting students to or from the approved PSSD on the sending district board of education bus, and the reported incident or complaint is received by the student's school district of residence, the district board of education would initiate the investigation according to its HIB policy, in consultation with the approved PSSD, pursuant to proposed new rules at N.J.A.C. 6A:16-7.7(a)2ix(2) and 2(A).

The proposed new rules at N.J.A.C. 6A:16-7.7(a)2ix(2) and (2)(A) are as follows:

- (2) The procedure also shall include a process by which the district board of education will investigate a complaint or report of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:16-7.7(a)ix(1), occurring on district board of education school buses, at school-sponsored functions, and off school grounds involving a student who attends an approved PSSD.**
- (A) The investigation conducted by the district board of education's anti-bullying specialist shall be in consultation with the approved PSSD.**

Likewise, in cases when an HIB incident occurs while transporting students to or from an approved PSSD on the sending district board of education bus, and the approved PSSD receives the complaint or report, the Department proposes amendments at N.J.A.C. 6A:16-7.8(a)1 and a new rule at N.J.A.C. 6A:16-7.8(a)1i to require the approved PSSD to initiate the investigation according to its HIB policy, in consultation with the sending district board of education.

The proposed amendments at N.J.A.C. 6A:16-7.8(a)1 and 1i are as follows:

- 1. Each approved PSSD shall develop the policy to include approved PSSD school grounds, pursuant to N.J.A.C. 6A:16-1.3[, excluding sending district board of education school-sponsored functions and school buses];**

- i. The policy shall include a provision for initiating an investigation, pursuant to N.J.A.C. 6A:16-7.8(a)3ix(7), in consultation with the sending district board of education, when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education school bus and at school-sponsored functions.**

17. **COMMENT:** The commenters expressed concern that requiring sending district boards of education to be responsible for investigating incidents that occur on school buses that bring students to programs and incidents that take place off school grounds would limit the approved PSSD's ability to educate students in a safe and supportive environment. The commenters said an approved PSSD's staff have the greatest familiarity with the student(s) involved and are in much better position to implement the discipline and programs needed to remedy the behavior. The commenters expressed concern that requiring the sending school district personnel to be responsible for disciplining a student who does not attend their district is problematic, raising questions of fundamental fairness for the student(s) involved. The commenters also indicated sending school districts would find it difficult to investigate incidents in a timely manner since students in approved PSSDs can come from several sending school districts. **(1, 3, 4, 5)**

RESPONSE: The Department has clarified the consultative role of the approved PSSD in regards to a district board of education investigation of an incident on a school district bus, at a school-sponsored event, or off school grounds involving a student attending an approved PSSD to ensure the approved PSSD's staff, who may have the greatest familiarity with the student, are included in the investigatory process at proposed N.J.A.C. 6A:16-7.7(a)2ix(2) and (2)(A) (see response to Comment 15).

However, the Department disagrees the district board of education should not be involved in determining disciplinary consequences, in consultation with the approved PSSD. First, proposed N.J.A.C. 6A:16-7.8(a)3vi(2) requires disciplinary consequences to be selected in consultation with the sending district board of education; proposed N.J.A.C. 6A:16-7.8(a)3ix(3) will require, among other things, disciplinary action to be taken and counseling to be ordered in consultation with the sending district board of education; and proposed N.J.A.C. 6A:16-7.8(a)3x(2) will require the appropriate response to address the individual circumstances to also be made in consultation with the sending district board of education. Second, all students with disabilities, whether attending approved PSSDs or a public school, are protected by the rules at N.J.A.C. 6A:14, Special Education, which ensure consistency, fairness, and due process. Third, the sending district board of education may find it necessary to impose disciplinary action, such as suspension of privileges from district-sponsored events the approved PSSD student otherwise would be permitted to attend.

In regards to investigating incidents in a timely manner, the sending district board of education must investigate the HIB incident in consultation with the approved PSSD staff, who may have the greatest familiarity with the students involved; therefore, it may not be necessary for the district board of education to also consult with the sending

school district of another student. When necessary for a district board of education to consult with another sending district board of education, the required timeline for the investigation is regulated by the ABR.

When an HIB incident occurs off school grounds, the district board of education remains responsible, under the ABR, to conduct the investigation, in consultation with the approved PSSD, pursuant to proposed N.J.A.C. 6A:16-7.7(a)2ix(2)(A).

- 18. COMMENT:** The commenters sought clarification as to why the Department at proposed N.J.A.C. 6A:16-7.7(a)2v included “to the extent relevant” after “the nature of the student’s disability” when determining consequences for a student who commits an act of harassment, intimidation, or bullying, but did not propose a similar rule for a student in an approved PSSD who commits an act of harassment, intimidation, or bullying at N.J.A.C. 6A:16-7.8(a)3vi(1). The commenters noted that just because a student who attends an approved PSSD has a disability, the student’s disability will not always be relevant if he or she commits an act of HIB. **(4, 5)**

RESPONSE: The Department agrees the consequences for a student in an approved PSSD who commits an act of HIB are varied and graded according to the nature of the student’s disability to the extent relevant. The Department proposes at N.J.A.C. 6A:16-7.8(a)3vi(1) to include “to the extent relevant” to ensure consistency with N.J.A.C. 6A:16-7.7(a)2v. The proposed amendment is as follows:

- (1) Varied and graded according to the nature of the behavior, the nature of the student’s disability to the extent relevant, the developmental age of the student, and the student’s history of problem behaviors and performance; and**

- 19. COMMENT:** The commenters stated support for proposed N.J.A.C. 6A:16-7.8(a)3ix(4), which will require the full-time non-teaching principal to report to the sending district board of education of the students who are parties to an HIB investigation the results of each investigation involving an incident found to be HIB no later than five school days following the investigation’s completion, along with information on any service(s) provided; training established; and, pursuant to N.J.A.C. 6A:16-14-7.6(f), discipline imposed or other action taken or recommended by the full-time non-teaching principal. The commenters stated this information will assist the sending child study or individualized education program (IEP) team in carrying out its responsibility to ensure the approved PSSD continues to be the appropriate placement in the least restrictive environment. **(4, 5)**

RESPONSE: The Department appreciates the commenters’ support.

- 20. COMMENT:** The commenters suggested the Department at proposed N.J.A.C. 6A:16-7.8(a)3x deletes “in consultation and conjunction with the sending district board of education” in the requirement for the full-time non-teaching principal and school anti-bullying specialist to define the range of ways in which a school will respond once an incident of HIB is identified. The commenters expressed concern that students from several sending district boards of education may attend one approved PSSD and the rule, as originally proposed, would require the full-time non-teaching principal to consult with many districts on its policy. **(4, 5)**

RESPONSE: The Department proposes to clarify the rule to require the approved PSSD’s policy to include a requirement for the full-time non-teaching principal and anti-bullying specialist to determine the range of ways in which the school will respond when an incident of HIB is identified. The proposed amendment at N.J.A.C. 6A:16-7.8(a)3x is as follows:

- x. **A requirement for the full-time non-teaching principal and school anti-bullying specialist[[, in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.1,]] to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services and other programs;**

The Department also proposes a new rule at N.J.A.C. 6A:16-7.8(a)3x(2) to clarify that determining the appropriate response “in consultation and conjunction with the sending district board of education” refers to when the approved PSSD is addressing individual circumstances of an identified incident of HIB and must consult with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f). The proposed rule at N.J.A.C. 6A:16-7.8(a)3x(2) is as follows:

(2) Once an incident of harassment, intimidation, or bullying is identified, the full-time non-teaching principal shall determine the appropriate response to address the individual circumstances in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f), as appropriate;

- 21. **COMMENT:** The commenters expressed concern that N.J.A.C. 6A:16-7.8(a)3xi requires parents of students in approved PSSDs who are party to an HIB investigation to request a hearing before the sending district board of education. The commenters suggested the appropriate forum for parents to have a hearing is not the sending district board of education, but rather the approved PSSD or in front of a Department official. (1, 4, 5)

RESPONSE: The Department disagrees. The sending district board of education is responsible for the educational program of each student in an approved PSSD, pursuant to N.J.A.C. 6A:14-7.5(a), and, therefore, must provide the parents of its students their right to a hearing before the sending district board of education. Sending district board of education students in approved PSSDs are entitled to the same appeal options as other district board of education students.

- 22. **COMMENT:** The commenters suggested the Department at proposed N.J.A.C. 6A:16-7.8(a)3xiii delete “in consultation and conjunction with the sending district board of education” in the requirement for consequences and appropriate remedial action for a student found to have falsely accused another student as a means of retaliation or HIB. (4, 5)

RESPONSE: The Department disagrees. Pursuant to N.J.A.C. 6A:14-7.6(f), a receiving PSSD cannot unilaterally implement disciplinary action involving removal to an interim educational setting, suspension of more than 10 consecutive or cumulative school days in a school year, or termination of placement. Such disciplinary action must be

implemented in conjunction with the sending district board of education and consistent with the student's IEP.

23. **COMMENT:** The commenter expressed concern the Department has chosen to exclude at proposed N.J.A.C. 6A:16-7.8 the provisions of N.J.A.C. 6A:16-7.7(c) 1, which gives to the district board of education member or school employee who reports an incident of HIB, or to any school administrator or safe school resource officer who makes the report in compliance with the district board of education's policy, immunity from a cause of action for damages arising from a failure to remedy the reported incident, pursuant to N.J.S.A. 18A:37-16.c. The commenter said not granting immunity for employees of PSSDs who promptly report incidents of HIB would have a negative impact on PSSDs. The commenter suggested the Department include at proposed N.J.A.C. 6A:16-7.8 an immunity provision similar to the immunity provided for reporting neglected or abused children. **(1)**

RESPONSE: The Department does not have the authority to include an immunity provision for an employee of an approved PSSD who promptly reports an incident of HIB to the full-time non-teaching principal in compliance with the approved PSSD's HIB policy since approved PSSDs are not included under N.J.S.A. 18A:37-16.c.

24. **COMMENT:** The commenters asked what type of "disciplinary action" would be required, pursuant to recodified N.J.A.C. 6A:16-7.9, to be included in the transfer of records to another school district. The commenters asked if the principal's determination that an incident is not HIB would be part of the student information that must be transferred. **(4, 5)**

RESPONSE: Pursuant to N.J.A.C. 6A:16-7.9(a), all information in the student's record related to disciplinary actions taken against the student by the school district must be provided to the receiving school district. A determination that an incident is not HIB is not a disciplinary action taken against a student.

AGENCY-INITIATED CHANGES

1. The Department proposes an amendment at N.J.A.C. 6A:16-7.8(a)3x(1) to replace the citation "N.J.A.C. 6A:14-7.1" with "N.J.A.C. 6A:14-7.6" to provide the correct reference. The proposed amendment is as follows:
 - (1) **The responses, at a minimum, shall include support for a victim of harassment, intimidation, or bullying and corrective actions, pursuant to N.J.A.C. 6A:14-[7.1]7.6, for documented systemic problems related to harassment, intimidation, or bullying;**
2. The Department proposes an amendment at N.J.A.C. 6A:16-7.8(a)3xi(2) to replace "school days" with "business days" consistency with N.J.A.C. 6A:16-7.7(a)2xi(2). The proposed amendment is as follows:
 - (2) **The hearing before the sending district board of education shall be scheduled in collaboration with the PSSD and held by the sending district board of education within 10 [school] business days of the request. The approved PSSD and the sending district board of education shall coordinate the policies and procedures for conducting such hearings.**



State of New Jersey
DEPARTMENT OF EDUCATION
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Proposal Level
July 13, 2016

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Commissioner

TO: Members, State Board of Education

FROM: David C. Hespe
Commissioner

SUBJECT: N.J.A.C. 6A:16, Programs to Support Student Development

REASON
FOR ACTION: Amendments

AUTHORITY: N.J.S.A. 18A:4-15 and 18A:37-15 and 21 and N.J.A.C. 6A:32-7

SUNSET DATE: February 18, 2021

Summary

The Department of Education (Department) proposes amendments to N.J.A.C. 6A:16, Programs to Support Student Development, to clarify existing rules implementing the *Anti-Bullying Bill of Rights Act* (ABR) (P.L. 2010, c. 122) and in response to recommendations proposed by the Anti-Bullying Task Force. The proposed amendments will assure all students have the opportunity to achieve academic and behavioral success in safe and supportive learning environments.

The Department proposes to amend N.J.A.C. 6A:16-1.2, Scope, 1.3, Definitions, and 7.7, Harassment, intimidation, and bullying. The Department also proposes new N.J.A.C. 6A:16-7.8, Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs). As a result of new N.J.A.C. 6A:16-7.8, existing N.J.A.C. 6A:16-7.8 will be recodified as N.J.A.C. 6A:16-7.9 without change.

The following is a description of the sections proposed for amendment and the proposed new rule:

Subchapter 1. General Provisions

N.J.A.C. 6A:16-1.2 Scope

The section establishes the rules that apply to the provision of programs and services for all students in kindergarten through grade 12 by New Jersey public school districts, including educational services commissions, jointure commissions, charter schools, and approved PSSDs acting under contract with school districts to provide the services. Throughout the chapter, “district board of education” refers to the governing authority for all of the identified agencies,

unless otherwise indicated.

The Department proposes an amendment at N.J.A.C. 6A:16-1.2 to state the approved PSSDs will no longer be included under the term “district board of education” at N.J.A.C. 6A:16-7.7. Instead, the Department proposes new N.J.A.C. 6A:16-7.8 to clarify how the harassment, intimidation, and bullying rules apply to approved PSSDs.

N.J.A.C. 6A:16-1.3 Definitions

The section defines terms used throughout the chapter.

The Department proposes a definition for “Electronic Violence and Vandalism Reporting System” to identify the electronic system developed by the Department to collect incident data from school districts, pursuant to N.J.S.A. 18A:17-46 and 48, as amended by P.L. 2010, c. 122. The proposed definition is necessary since the Department is currently developing an updated, more efficient data collection system to replace the decade-old Electronic Violence and Vandalism Reporting System (EVVRS) with a system that collects the same data, as well as the harassment, intimidation, and bullying data collected, pursuant to N.J.S.A. 18A:37-17, in a separate data collection system. The new system, not yet named, will not be ready for use by school districts until after the effective date of the proposed amendments. The proposed definition for EVVRS, which is used in Subchapters 5 and 6, is intended to capture any future-named data system that collects the same information as the current EVVRS.

The Department proposes a definition for “school safety/school climate team” to reflect the intended role of the school safety team specified in the ABR, which is to develop, foster, and maintain a positive school climate. There currently is no definition for “school safety team” outlining the team’s role and responsibilities. The Anti-Bullying Task Force recommended to revise the title for the school safety team to include “school climate” since addressing school climate issues is an important function of the safety team that often is underutilized by school districts. The proposed definition for “school safety/school climate team” is necessary to specify the revision to the school safety team’s name proposed at N.J.A.C. 6A:16-7.7(h). The proposed change will not alter the team’s roles and responsibilities as described in N.J.S.A. 18A:37-21.

Subchapter 7. Student Conduct

N.J.A.C. 6A:16-7.7 Harassment, intimidation, and bullying

The section establishes requirements for district boards of education to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying (HIB) on or off school grounds.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(a)2, which allows each district board of education control over the content of its HIB policy and states its required minimum components, to replace “it” with “the policy” to ensure consistency with N.J.S.A. 18A:37-15.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2iii to require each district board of education’s policy prohibiting harassment, intimidation, or bullying on school grounds to include a statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance. Including power imbalance as a method of distinguishing the characteristic that motivated the aggressor was recommended by the Anti-Bullying Task Force since power

imbalance could be the root cause of the aggressor's behavior toward the target.

The Department proposes an amendment at recodified N.J.A.C. 6A:16-7.7(a)2v, which requires the policy prohibiting harassment, intimidation, or bullying to include appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior, the student's developmental age, and the student's history of problem behaviors and performance. The Department proposes to add "the nature of the student's disability, if any and to the extent relevant" as one of the issues that must be considered since a student served by the district board of education may have a documented disability and the nature of a student's disability may have an effect on a student's role as offender in an act of harassment, intimidation, or bullying.

The Department proposes an amendment at recodified N.J.A.C. 6A:16-7.7(a)2vi(1), which requires the district board of education's policy to include consequences for a student who commits an act of harassment, intimidation, or bullying that are varied and graded according to the nature of the behavior, the student's developmental age, and the student's history of problem behaviors and performance. The Department proposes to add "the nature of the student's disability, if any and to the extent relevant" since students served by the district board of education may have a documented disability and the nature of a student's disability must be considered when determining appropriate consequences for a student who commits an act of harassment, intimidation, or bullying.

The Department proposes amendments at recodified N.J.A.C. 6A:16-7.7(a)2viii, which requires a school district's policy on harassment, intimidation, and bullying to include a procedure for reporting, verbally and in writing, an act of harassment, intimidation, or bullying, including a provision that permits a person to report anonymously. The Department proposes to add "that allows" before "for reporting, verbally and in writing" to clarify the procedure for reporting harassment, intimidation, or bullying in the district board of education policy. The Department also proposes to replace "including" with "committed by an adult or youth against a student" to clarify all alleged acts of harassment, intimidation, or bullying against a student are to be reported, pursuant to N.J.S.A. 18A:37-15.b(5), whether the act is committed by an adult or youth. The Department also proposes an amendment to make the subparagraph two sentences for grammatical purposes.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(1) to specify the school district's policy on harassment, intimidation, or bullying may include, as part of its investigation, a process by which the principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying, pursuant to N.J.S.A. 18A:37-14. The proposed regulation is in response to a recommendation presented to the Department by three Statewide organizations whose members are responsible for implementing the ABR (New Jersey Principals and Supervisors Association, New Jersey Association of School Administrators, and New Jersey School Boards Association) to clarify the principal's role when there is a reported incident or complaint of an act of harassment, intimidation, or bullying. Including the preliminary determination by the principal and the anti-bullying specialist as part of the investigatory process, if permitted by an approved district board of education policy, will align the rule with the requirement for the principal to initiate the harassment, intimidation, or bullying investigation within one day of the incident report of an incident, pursuant to N.J.S.A. 18A:37-15.b(6)(a).

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(2) to require the district board

of education's HIB policy to include a procedure for investigating incidents on a district board of education bus, at school-sponsored functions, and off school grounds involving a student placed in an approved PSSD when the complaint or report is received by the district board of education. that the Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(2)(A) to require the district board of education's anti-bullying specialist to conduct an investigation in consultation with the approved PSSD. The proposed rules are necessary to clarify when the district board of education is responsible for conducting an investigation. The inclusion of the consultation with the approved PSSD is also necessary since the approved PSSD's staff could be more familiar with the student(s) involved than the sending district board of education. The consultation also alerts the approved PSSD of the occurrence of an incident that might affect the orderly operation of its school.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(3) to prohibit investigations of complaints concerning adult conduct from being investigated by a member of the same bargaining unit as the individual who is the subject of the investigation. The proposed rule is in response to confusion in school districts about who may conduct the harassment, intimidation, or bullying investigation when the alleged offender is a school staff member. The proposed rule clarifies that it is not permissible for a complaint to be investigated by a member of the same bargaining unit.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2xi and (a)2xi(1) to provide parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation a timeline of 45 calendar days after the parents or guardians receive the required written information about the investigation from the district board of education, pursuant to N.J.S.A. 18A:37-15.b(6)(d), to request a hearing before the district board of education. An established timeline will ensure hearings are requested within a reasonable amount of time from the date the parent or guardian receives information about the investigation. Proposed new N.J.A.C. 6A:16-7.7(a)2xi(2) also requires the district board of education to hold the hearing within 10 business days of the parent or guardian's request, as recommended by the Anti-Bullying Task Force. The ABR does not specify whether the hearing must be held within 10 business, calendar, or school days after the request.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(c), which requires a district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed, or has reliable information that a student has been subject to harassment, intimidation, or bullying to report the incident to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying. The Department proposes to replace the cross-reference "(a)2vii above" with "(a)2viii above" due to the recodified rules and to add "an incident of harassment, intimidation, or bullying" after "who has witnessed" to better describe what was witnessed.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(d), which requires a school administrator who receives a report of harassment, intimidation, or bullying from a school employee and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action. The Department proposes to delete "from a school employee" to clarify any administrator who fails to act on an bullying complaint, no matter who makes the complaint, is subject to disciplinary action. The proposed amendment will emphasize the importance of the school administrator's role in prevention of and intervention in harassment, intimidation, or bullying incidents to

provide a safe learning environment.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(e)1, which requires district boards of education to do the following: annually review the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, and bullying policies, procedures, programs, and initiatives of the district board of education; implement training programs for school employees and volunteers who have significant contact with students, consistent with P.L. 2010, c. 122; and review training needs and the findings of the annual review and update the code of student conduct. The proposed amendments replace “[a]nnually review” and “annual review” with “[a]nnually examine” and “annual examination” to differentiate the examination of training needs versus the annual review and update of the code of student conduct. The Department also proposes to replace “P.L. 2010, c. 122” with “N.J.S.A. 18A:37-17.b” to cite the corresponding statute. The Department further proposes to recodify “the annual examination of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2” as new N.J.A.C. 6A:16-7.7(e)1i for clarity.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)3, which requires a district board of education to conduct an annual re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy and make any necessary revisions, to include the re-evaluation, reassessment, and review of “any report(s) and/or finding(s) of the school safety/school climate team(s).” The proposed amendment will align the rule with the duties of the school safety/school climate team at N.J.S.A. 18A:37-21.c. The Department also proposes to make the paragraph two sentences for grammatical purposes and to add “to its policy” after “revisions” to clarify what may be revised.

The Department proposes an amendment to N.J.A.C. 6A:16-7.7(e)3i, which requires the programs or other responses to be planned in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators, to add “law enforcement” as a specified group. Members of law enforcement are current contributors in planning programs and other responses to the annual re-evaluation, reassessment, and review of the harassment, intimidation, and bullying policy in schools. The addition of law enforcement members will align the rule with current practices.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)4i, which requires programs, approaches, and initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in the school district’s schools to be planned in consultation with, at a minimum, parents and other community members, school employees, volunteers, and administrators, and students, to add “law enforcement” as a specified group, pursuant to N.J.S.A. 18A:37-17.a. Members of law enforcement are current contributors in the creation of schoolwide programs, approaches, and initiatives to intervene in harassment, intimidation, and bullying in schools. The addition of law enforcement members will update the rule to align with current practices and ensure consistency with the statutory requirement.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)5, which requires the district board of education to submit to the executive county superintendent its approved harassment, intimidation, or bullying policy within 30 days of its adoption, to further require the district board of education to submit the policy within 30 days of its revision. The proposed amendment will ensure the executive county superintendent has been provided with each school district’s most recent harassment, intimidation, or bullying policy.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(h), which requires the district board of education to form a school safety team in each school in the school district, to replace “school safety team” with “school safety/school climate team” to reflect the intended role of the team and to be consistent with the proposed definition for “school safety/school climate team.”

The Department proposes N.J.A.C. 6A:16-7.7(h)1 to require the school safety/school climate team to consist of the principal or his or her designee and the following members appointed by the principal: a teacher in the school; the school anti-bullying specialist; a parent of a student in the school; and other members determined by the principal. The proposed new paragraph will also require the team to be chaired by the school anti-bullying specialist, as required by N.J.S.A. 18A:37-21.b. The proposed rule will ensure the team has broad representation to fulfill its significant role in implementing the ABR.

The Department also proposes new N.J.A.C. 6A:16-7.7(h)1i and ii to specify the participation of the parent and other members of the school safety/school climate team who are not authorized to access student records is limited to general school climate issues and to prohibit the individuals from participating in activities that could compromise student confidentiality, pursuant to N.J.S.A. 18A:37-21.e and N.J.A.C. 6A:32-7.5.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(i), which specifies that the section’s rules must not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law, to add “of harassment, intimidation, or bullying” after “victim” to clarify the subchapter applies specifically to victims of harassment, intimidation, or bullying.

N.J.A.C. 6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs)

The Department proposes new N.J.A.C. 6A:16-7.8, Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs), to require approved PSSDs to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying on school grounds, including its school buses and school-sponsored functions. Prior to the readoption of N.J.A.C. 6A:16 with amendments in February 2014 (46 N.J.R. 505(a)), N.J.A.C. 6A:16-7.7 applied to both school districts and approved PSSDs. After further analysis, the Department has determined all of the rules applicable to district boards of education should not be applied to approved PSSDs. Therefore, the Department is tailoring the amendments to meet the unique needs of the approved PSSDs. Since the ABR’s provisions apply to New Jersey public schools but not to approved PSSDs, some of the requirements in N.J.A.C. 6A:16-7.7 are not appropriate for approved PSSDs. Approved PSSDs are private entities, may not have a governing body, may have a personnel structure that differs from a public school, and serve as receiving schools contracted to provide educational services on behalf of public schools. Proposed N.J.A.C. 6A:16-7.8 will correct the oversight made when N.J.A.C. 6A:16 was readopted.

The Department proposes to replicate the majority of existing N.J.A.C. 6A:16-7.7 and the proposed provisions at new N.J.A.C. 6A:16-7.8 with the following differences: all references to the ABR (N.J.S.A. 18A:37-13 et seq.) are deleted; “district board of education” is replaced with “approved private schools for students with disabilities (PSSDs)”; and “principal” is replaced with “full-time non-teaching principal,” pursuant to N.J.A.C. 6A:14-7.6(d).

The rules in proposed N.J.A.C. 6A:16-7.8 that are not identical to the corresponding rule at N.J.A.C. 6A:16-7.7, as proposed, or have been excluded from proposed N.J.A.C. 6A:16-7.8, are described below along with a justification for each variation.

The Department proposes N.J.A.C. 6A:16-7.8(a)1 to require each approved PSSD to develop the policy to prohibit harassment, intimidation, or bullying on approved PSSD grounds. The similar rule at N.J.A.C. 6A:16-7.7(a) for public schools requires the policy to prohibit harassment, intimidation, or bullying on school grounds and proposed N.J.A.C. 6A:16-7.8(a)1 specifies on approved PSSD grounds only. The Department proposes N.J.A.C. 6A:16-7.8(a)1i to require the approved PSSD's harassment, intimidation, or bullying policy to include a provision for initiating an investigation when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education bus or at school-sponsored functions. The investigation must include consultation with the sending district board of education, pursuant to proposed N.J.A.C. 6A:16-7.8(a)1i.

The Department proposes N.J.A.C. 6A:16-7.8(a)2 to require each approved PSSD to develop the policy prohibiting harassment, intimidation, or bullying in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students. "[A]s appropriate" is not included in the similar rule for school districts at N.J.A.C. 6A:16-7.7(a)1 as it relates to school volunteers but is included in the proposed rule since approved PSSDs are not required under the law to utilize school volunteers or to include school volunteers in the development of the harassment, intimidation, or bullying policy. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in this process.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ii to require the approved PSSD's policy to include the definition for harassment, intimidation, or bullying as set forth at N.J.A.C. 6A:16-1.3, except for incidents occurring off school grounds. The proposed rule specifies the policy prohibiting harassment, intimidation, or bullying is for occurrences only on approved PSSD grounds; incidents occurring off school grounds are included at the corresponding rule for school districts at N.J.A.C. 6A:16-7.7(a)2ii where the definition of harassment, intimidation, or bullying includes off school grounds, pursuant to N.J.S.A. 18A:37-14. Additionally, "no less inclusive" from the corresponding rule at N.J.A.C. 6A:16-7.7(a)2ii is not included in proposed N.J.A.C. 6A:16-7.8(a)3ii because approved PSSDs will not be required to include a definition for "harassment, intimidation, or bullying" that is as inclusive as the definition at N.J.A.C. 6A:16-1.3.

The Department proposes N.J.A.C. 6A:16-7.8(a)3iv to require the policy prohibiting harassment, intimidation, or bullying to include a description of the type of behavior expected from all students. The Department proposes to replace "each student," as in recodified N.J.A.C. 6A:16-7.7(a)2iv, with "all students" to clarify the harassment, intimidation, or bullying policy must include general expectations for behavior of all students. A student's individualized education program (IEP) details individualized behavior expectations, as appropriate.

The Department proposes N.J.A.C. 6A:16-7.8(a)3v(1) to specify that the appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying may include a behavioral assessment or evaluation, including, but not limited to, a referral to the IEP team of the sending district board of education, as appropriate. The Department proposes to replace "child study team" from the corresponding rule at recodified N.J.A.C. 6A:16-7.7(a)2v(1) with "individualized education program team of the sending district board of education" as the appropriate team. All students in approved PSSDs have been evaluated previously by the child

study team and have an IEP. The sending district board of education is responsible for maintaining an IEP for each district board of education student receiving services at an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3vi(2) to require disciplinary action for a student who commits an act of harassment, intimidation, or bullying to be consistent with N.J.A.C. 6A:14-7.6(f). Since all students in the approved PSSD have an IEP, consequences must be consistent with special education rules.

The Department proposes N.J.A.C. 6A:16-7.8(a)3viii(2) to require approved PSSDs to establish a procedure that allows for verbal and written reporting of an act of harassment, intimidation, or bullying committed by an adult or youth against a student to include a provision that disciplinary action must be consistent with provisions of N.J.A.C. 6A:14-7.6(f). The proposed amendment will prevent approved PSSDs, as receiving schools, from unilaterally implementing specific disciplinary action for a student who commits an act of harassment, intimidation, or bullying, including removal of a student to an interim education setting, suspension of more than 10 consecutive or cumulative school days in a school year, or termination of placement. Any disciplinary action must be implemented in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f).

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(1) through (6) to replace the reference to the provisions of N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d that are referenced at recodified N.J.A.C. 6A:16-7.7(a)2ix. N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d do not apply to approved PSSDs. Proposed N.J.A.C. 6A:16-7.8(a)3ix(1) through (7) will specify the investigation procedures for approved PSSDs and maintain uniformity of investigations.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(1) to require, as part of the procedure for prompt investigation of violation and complaint reports, the full-time non-teaching principal, or his or her designee, to initiate the investigation within one school day of the initial incident report and to require the school anti-bullying specialist to conduct the investigation. The proposed rule also allows the full-time non-teaching principal to appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The proposed rule further requires the investigation to be completed as soon as possible, but no later than 10 school days from the date of the written report of the harassment, intimidation, and bullying incident. The proposed rule further allows the initial report of the investigation results to be amended when relevant information is received after the end of the 10-school-day investigation period. The proposed rule ensures reports of harassment, intimidation, and bullying are promptly investigated and specifies the investigation requirements. The proposed rule also requires the full-time non-teaching principal and the anti-bullying specialist to perform in a timely manner certain functions during the investigative process to protect the safety and well-being of each student in an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(2) to require the anti-bullying specialist to report the harassment, intimidation, or bullying investigation results to the full-time non-teaching principal within two school days of the investigation's completion. An established timeline for reporting the investigation results to the full-time non-teaching principal will ensure allegations of harassment, intimidation, or bullying will be addressed in a reasonable amount of time from when the allegation is reported to an employee of an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(3) to allow the full-time non-teaching principal to do the following: provide intervention services; establish training programs to reduce harassment, intimidation, or bullying and to enhance school climate; and, in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation's findings, or take or recommend other appropriate actions as part of the procedure for prompt investigation of violations and complaint reports of harassment, intimidation, or bullying. The proposed rule specifies the appropriate actions that may be implemented as a result of the investigation findings and clarifies that certain actions must be consistent with N.J.A.C. 6A:14.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(4) to require the full-time non-teaching principal to report to the sending district board of education of the students who are parties to the harassment, intimidation, or bullying investigation, the results of each investigation involving an incident found to be harassment, intimidation, or bullying no later than five school days following the investigation's completion. The proposed rule will also require the full-time non-teaching principal to provide the sending district board of education with information about any service(s) provided, training established, and discipline imposed or other action taken or recommended by the full-time non-teaching principal. The proposed rule will ensure sending district boards of education and parents or guardians are provided with information about their students who attend approved PSSDs in a reasonable amount of time from when the harassment, intimidation, or bullying incident is reported to an employee of an approved PSSD. It is essential that district boards of education are provided this information to determine if the school district needs to reconvene a student's IEP team as a result of being an offender or victim in an incident of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:14-7.1.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(5) to require the full-time non-teaching principal to provide, in accordance with Federal and State law and regulation, parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation with information about the investigation including the nature of the investigation, the findings, and whether discipline was imposed and services were provided, as appropriate, to address the harassment, intimidation, or bullying incident. The proposed rule also will require the full-time non-teaching principal to provide the information within five school days following the investigation's completion. The proposed rule will ensure parents or guardians are provided with information related to their child's experiences in the educational setting and within a reasonable amount of time from when the investigation is completed. Parents and guardians can determine whether to request a meeting to discuss changes to the IEP based on the written information received about the investigation, pursuant to N.J.A.C. 6A:14-2.3(h)5.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(6) to require each approved PSSD's investigation procedure to include a provision that a full-time non-teaching principal may be subject to disciplinary action if he or she receives a report of harassment, intimidation, or bullying and fails to initiate or conduct an investigation, or who has reason to believe an incident of harassment, intimidation, or bullying occurred and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying. The proposed rule will emphasize the importance of the full-time non-teaching principal's role in prevention and intervention of harassment, intimidation, or bullying incidents to provide a safe learning environment. Parents, adult students, school officials, and employees have the right to file a complaint with the Department's Office of Controversies and Disputes when there is concern a rule may have been violated, in accordance with N.J.A.C. 6A:3.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(7) to allow the procedure set forth in the approved PSSD's policy on harassment, intimidation, or bullying to include, as part of the investigation, a process by which the full-time non-teaching principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying. The proposed rule is consistent with N.J.A.C. 6A:16-7.7(a)2ix(1) to maintain uniformity of investigations.

The Department has chosen to exclude, at proposed N.J.A.C. 6A:16-7.8, the provisions of proposed N.J.A.C. 6A:16-7.7(a)2ix(2) that specify who may investigate complaints regarding alleged adult-on-student harassment, intimidation, or bullying when the investigator and alleged offender are part of the same bargaining unit. Approved PSSDs are private entities that may or may not have collective bargaining units.

The Department proposes N.J.A.C. 6A:16-7.8(a)3x to require the approved PSSD's policy to include a requirement for the full-time non-teaching principal and school anti-bullying specialist to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs. The proposed rule does not require an approved PSSD to consult and act in conjunction with the sending district board of education when identifying responses for the victim and offender since this may require the approved PSSD to consult with multiple sending school districts. Instead, the Department proposes N.J.A.C. 6A:16-7.8(a)3x(2) to require the approved PSSD's full-time non-teaching principal to determine the appropriate response to address the individual circumstances of an identified incident of harassment, intimidation, or bullying, in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f).

The Department proposes N.J.A.C. 6A:16-7.8(a)3x(1) to require the approved PSSD's response to include, at a minimum, support for a victim of harassment, intimidation, or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying. The proposed rule allows for safe and supportive schools for all students, including the prevention of and intervention in incidents of harassment, intimidation, or bullying, to support the establishment and maintenance of civil, secure, and disciplined school environments conducive to learning, pursuant to N.J.A.C. 6A:14-7.6.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xi and (a)3xi(1) to require the approved PSSD's policy to allow the parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about a harassment, intimidation, or bullying investigation, pursuant to proposed N.J.A.C. 6A:16-7.8(a)3ix(5). The proposed rules will require any request for a hearing to be filed with the sending district board of education within 45 calendar days after written information regarding the investigation is received by the sending district board of education and the parents or guardians. The Department also proposes N.J.A.C. 6A:16-7.8(a)3xi(2) to require the hearing to be scheduled in collaboration with the PSSD, to be held within 10 business days of the request, and for the hearing procedures to be in accordance with the sending district board of education's policies and procedures for conducting such hearings. The proposed rule will provide the same rights to appeal afforded to all students at proposed N.J.A.C. 6A:16-7.7(a)xi.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xiii to require each approved PSSD's policy to include consequences and appropriate remedial action for a student who falsely accuses

another as a means of retaliation of harassment, intimidation, or bullying. Since all students in the approved PSSD have an IEP, the proposed rule requires the school to identify the consequences and appropriate remedial action “in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f).” The proposed rule will allow district boards of education and approved PSSDs to develop the appropriate disciplinary action based on individual student needs.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xiv to require the approved PSSD’s harassment, intimidation, or bullying policy to include a statement that a parent, student, guardian, or organization can file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any harassment, intimidation, or bullying incident based on membership in a protected group as enumerated in the Law Against Discrimination, P.L. 1945, c.169 (N.J.S.A. 10:5-1 et seq.). The proposed rule will ensure parents, students, guardians, and organizations are aware of their right to file a complaint with the New Jersey Division on Civil Rights.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xv to require the approved PSSD’s policy to include a statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that it applies to participation in approved PSSD-sponsored functions and on school buses operated by the approved PSSD. While recodified N.J.A.C. 6A:16-7.7(a)2xiv contains most of the proposed new rule’s provisions for school districts, N.J.A.C. 6A:16-7.8(a)3xiii applies only to an approved PSSD’s buses and school-sponsored functions because the sending school district remains responsible for incidents that occur off school grounds.

The Department has chosen to exclude the requirement for the name of the school district’s anti-bullying coordinator and associated information to be posted prominently on the home page of the school district’s website as regulated at recodified N.J.A.C. 6A:16-7.7(a)2xvii for school districts. The Department did not include the requirement for approved PSSDs to have an anti-bullying coordinator since N.J.S.A. 18A:37-20.b does not require this position. Requiring approved PSSDs to have an anti-bullying coordinator could present an undue financial burden on approved PSSDs if it is necessary to hire a new staff member to fulfill the anti-bullying coordinator duties as set forth for school districts.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(a)2xix and (a)2xix(1), which require appropriate responses to harassment, intimidation, or bullying occurring off school grounds when a school employee is made aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying, and responses to be consistent with N.J.A.C. 6A:16-7.1, 7.5, and 7.7. It is the responsibility of the sending district board of education to respond to reports of harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-15.3.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(b), which provides that a district board of education shall not be prohibited from adopting a harassment, intimidation, or bullying policy that includes components more stringent than N.J.S.A. 18A:37-15 and N.J.A.C. 6A:16-7.7(a)2. The rule was excluded for approved PSSDs because approved PSSDs are not required to have a governing body and, therefore, cannot be subject to a rule that governs district boards of education.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(c)1, which gives to the district board of education member or school employee who reports an incident of

harassment, intimidation, or bullying, or to any school administrator or safe school resource officer who makes the report in compliance with the district board of education's policy, immunity from a cause of action for damages arising from a failure to remedy the reported incident, pursuant to N.J.S.A. 18A:37-16.c. The Department does not have the authority to include an immunity provision for an employee of an approved PSSD who promptly reports an incident of harassment, intimidation, or bullying to the full-time non-teaching principal in compliance with the approved PSSD's harassment, intimidation, or bullying policy since approved PSSDs are not included under N.J.S.A. 18A:37-16.c.

The Department proposes N.J.A.C. 6A:16-7.8(b) to require an approved PSSD employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying, to report the incident to the full-time non-teaching principal, or to any school administrator or safe schools resource officer, who must immediately initiate the approved PSSD's procedures concerning harassment, intimidation, and bullying.

The Department proposes N.J.A.C. 6A:16-7.8(c)1 and (c)1i to require approved PSSDs to do the following: annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives; implement training programs for school employees and volunteers who have significant contact with students; and consider the findings of the annual review and update of the code of student conduct when examining the training needs. The proposed rule will ensure training needs of school employees and volunteers who have significant contact with students are assessed each year as part of the implementation of effective harassment, intimidation, or bullying training programs.

The Department proposes N.J.A.C. 6A:16-7.8(c)3 to specify the annual re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy and/or finding(s) of the school safety/school climate team(s) for the purpose of making necessary revisions. The proposed rule contains the provisions at N.J.A.C. 6A:16-7.7(e)3, replacing the cross-reference to "N.J.S.A. 18A:37-15.c," which does not apply to approved PSSDs, with the appropriate cross-reference for approved PSSDs (N.J.A.C. 6A:14-7.3(a)). The Department proposes to add "to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students," at the end. The proposed differences require ongoing school climate and harassment, intimidation, or bullying efforts to promote safe and supportive learning environments.

The Department proposes N.J.A.C. 6A:16-7.8(c)3i to require programs or other responses to be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students. "[A]s appropriate" is not included in the similar rule for school districts at N.J.A.C. 6A:16-7.7(e)3i, but is included in this section, since approved PSSDs are not required to utilize school volunteers or to include school volunteers in the development of the policy prohibiting harassment, intimidation, or bullying. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in the process.

The Department proposes N.J.A.C. 6A:16-7.8(c)4i to require programs, approaches, and initiatives to be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students. "[A]s appropriate" is not included in the similar rule for school districts at N.J.A.C. 6A:16-7.7(e)4i, but is included in this section, since approved PSSDs are not required to utilize school volunteers or to include school volunteers in the development of the

policy prohibiting harassment, intimidation, or bullying. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in the process.

The Department proposes N.J.A.C. 6A:16-7.8(c)5 to require the approved PSSD to submit to the executive county superintendent, a copy of its harassment, intimidation, and bullying policy in the first school year following the effective date of the proposed new rule and within 30 days of revision. The similar rule for public school districts as proposed at N.J.A.C. 6A:16-7.7(e)5 requires the policy to be submitted within 30 days of its adoption or revision. Since approved PSSDs do not have a district board of education to adopt the policy, the proposed requirement for submitting the original policy to the executive county superintendent within 30 days of adoption has been revised to allow time for the approved PSSD to develop a policy within the first school year of the effective date of the proposed new rule.

The Department proposes N.J.A.C. 6A:16-7.8(d) to require the full-time non-teaching principal to appoint a school anti-bullying specialist from currently employed school staff to act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school and the functions identified pursuant to proposed N.J.A.C. 6A:16-7.8(a)3ix, (a)3ix(1), and (a)3x. The proposed rule at N.J.A.C. 6A:16-7.8(d) includes the provisions of N.J.A.C. 6A:16-7.7(f), which state the functions of the anti-bullying specialist under N.J.S.A. 18A:37-13, and removes the requirement for PSSDs to have anti-bullying coordinators as approved PSSDs are not governed under the ABR. Similarly, the Department has chosen to exclude from proposed N.J.A.C. 6A:16-7.8 the requirement at N.J.A.C. 6A:16-7.7(g) for the chief school administrator to appoint an anti-bullying coordinator.

The Department proposes N.J.A.C. 6A:16-7.8(e) to require each approved PSSD to form a school safety/school climate team to develop, foster, and maintain a positive school climate by focusing on the on-going systemic processes and practices in the school and to address school climate issues, such as harassment, intimidation, or bullying. The proposed rule also will require the approved PSSD to perform the functions specified at proposed N.J.A.C. 6A:16-7.8(e)1 through 7, including meet two times per school year; receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal; receive copies of any report prepared after an investigation of a harassment, intimidation, or bullying incident; identify and address patterns of harassment, intimidation, or bullying of students in the school; review and strengthen school climate and policies to prevent and address harassment, intimidation, or bullying of students; educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students; and execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal. The similar rule for public schools at N.J.A.C. 6A:16-7.7(h) cross-references N.J.S.A. 18A:37-21 rather than listing the functions. N.J.S.A. 18A:37-21.c(7), which requires the school safety team to collaborate with the school district anti-bullying coordinator in collecting data and developing policies to prevent harassment, intimidation, and bullying, was excluded from proposed N.J.A.C. 6A:16-7.8(e), since approved PSSDs are not required by law to have anti-bullying coordinators.

The Department proposes N.J.A.C. 6A:16-7.8(f)3 to require the approved PSSD to provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches. The proposed rule will ensure school safety team members are provided the necessary skills through continued professional development for ongoing enhancement of school climate programs and approaches.

The Department proposes N.J.A.C. 6A:16-7.8(g) to prohibit the interpretation of the section's requirements from being interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law. The similar rule at N.J.A.C. 6A:16-7.7(i) references the rules promulgated pursuant to N.J.S.A. 18A:37-13 through 32, which do not apply to approved PSSDs.

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

Social Impact

The proposed amendments and new rule will help ensure the required harassment, intimidation, and bullying policies and procedures are followed in a timely and effective manner to prevent interference with the intellectual, academic, and social development of public school students and students in approved PSSDs. The proposed amendments and new rule will assure all students have the opportunity to achieve academic success by providing safe and supportive learning environments. By clarifying the rules regarding harassment, intimidation, and bullying and, specifically, under the new rule, district boards of education will be able to strengthen standards for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying as intended by the Legislature. Similarly, approved PSSDs will protect district board of education students under their purview.

Economic Impact

The Department anticipates no financial impact on school districts or approved PSSDs as the result of the proposed amendments and new rule.

Federal Standards Statement

The proposed amendments and new rule do not exceed Federal standards as there are no Federal laws or regulations regarding the provisions of student conduct.

Jobs Impact

The proposed amendments and new rule will have no impact on the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments and new rule will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments and new rule alleviate some requirements previously imposed and clarify existing reporting, recordkeeping, or other compliance requirements on small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Approved PSSDs could be considered small businesses, as that term is defined by the Regulatory Flexibility Act, and could be impacted by the proposed amendments and new rule. The provisions are generally consistent with the harassment, intimidation, and bullying rules that were in place for school districts and approved PSSDs prior to the adoption in February 2014 (46

N.J.R. 505(a)) of amendments to N.J.A.C. 6A:16-7.7 to include the requirements of the *Anti-Bullying Bill of Rights Act*.

The provisions of proposed N.J.A.C. 6A:16-7.8 that impact reporting, recordkeeping, or other compliance requirements include the reporting of harassment, intimidation, or bullying investigations in writing and the results of investigations within the approved PSSDs and to the appropriate sending school districts; posting and distribution of the harassment, intimidation, and bullying policy; implementation of training programs on harassment, intimidation, or bullying; and implementation, documentation, and assessment of bullying prevention programs. The Department requires the use of existing approved PSSD school staff and resources to meet requirements of the proposed rules. The proposed rules are not so burdensome on small businesses to outweigh their potential benefit addressing incidents of harassment, intimidation, or bullying. The Department does not anticipate adverse economic impact of the proposed rules at N.J.A.C. 6A:16-7.8 on approved PSSDs, as the requirements have not significantly changed from the adoption of N.J.A.C. 6A:16-7.7 in 2014. The Department contends the recordkeeping, reporting, and compliance requirements are reasonable and necessary.

Housing Affordability Impact Analysis

The proposed amendments and new rule will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the proposed amendments and new rule would evoke a change in the average costs associated with housing because the proposed amendments and new rule govern harassment, intimidation, and bullying policies for public school students and students in approved PSSDs.

Smart Growth Development Impact Analysis

The proposed amendments and new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood the proposed amendments and new rule would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and new rule govern harassment, intimidation, and bullying policies for public school students and students in approved PSSDs.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 6A:16, PROGRAMS TO SUPPORT STUDENT DEVELOPMENT

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CHAPTER 16. PROGRAMS TO SUPPORT STUDENT DEVELOPMENT

SUBCHAPTER 1. GENERAL PROVISIONS

6A:16-1.2 Scope

The rules apply to the provision of programs and services for all students in kindergarten through grade 12 by New Jersey public school districts, charter schools, jointure commissions, educational services commissions, and approved private schools for students with disabilities (PSSDs) acting under contract to provide educational services on behalf of New Jersey public school districts, unless otherwise indicated. Throughout the chapter, “district board of education” refers to the governing authority for all of the agencies identified in this section, unless otherwise indicated. **“District board of education” in N.J.A.C. 6A:16-7.7 shall not refer to approved PSSDs, which shall be governed by N.J.A.C. 6A:16-7.8.**

6A:16-1.3 Definitions

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

“Abused children” means the categories of children enumerated in N.J.S.A. 9:6-8.21.

"Advanced practice nurse" means a person who holds a current license as nurse practitioner/clinical nurse specialist from the State Board of Nursing.

"Alternative education program" means a comprehensive educational program designed to address the individual learning, behavior, and health needs of students who are not succeeding in the general education program or who have been mandated for removal from general education, pursuant to N.J.A.C. 6A:16-5.5, 5.6 and, as appropriate, 5.7. The alternative education program shall provide a variety of approaches to meet the State-adopted standards, such as, through non-traditional programs, services, and methodologies to ensure curriculum and instruction are delivered in a way that enables students to demonstrate the knowledge and skills specified for all students in N.J.A.C. 6A:8.

"Assessment" means procedures used by school staff to make a preliminary determination of a student's need for educational programs, supportive services, or referral for outside services that extend beyond the general school program by virtue of learning, behavioral, or health difficulties of the student or the student's family.

"Asthma treatment plan" means a form approved by the Commissioner and completed by the medical home that is specifically designed to indicate differentiated symptoms and appropriate action to be taken by school staff to manage the care of a student who suffers from asthma-related illnesses pursuant to N.J.S.A. 18A:40-12.8(b). The asthma treatment plan shall serve as an accompaniment to the student's Individualized Healthcare Plan.

"Case management" means advocacy for and coordination of student services, including, but not limited to, counseling, health services, referrals to community-based agencies, and monitoring of academic progress.

"Certified school nurse" means a person who holds a current license as a registered professional nurse from the State Board of Nursing and an educational services certificate, school nurse or

school nurse/non-instructional endorsement from the Department of Education pursuant to N.J.A.C. 6A: 9B-12.3 and 12.4.

“Code of student conduct” means standards, policies, and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.5.

"Do Not Resuscitate order" or "DNR order" means a written directive signed by the parent or guardian of a student who, after consultation with the pediatrician and other advisors, declines emergency administration of cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) to the student.

“Electronic communication” means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or remotely activating paging device.

“Electronic Violence and Vandalism Reporting System” means the electronic system, or other similar system developed by the Department, used to collect information from school districts to fulfill the requirements of N.J.S.A. 18A:17-46 and 48, as amended by P.L. 2010, c. 122.

"Evaluation" means procedures used by a certified or licensed professional to make a positive determination of a student’s need for programs and services that extend beyond the general school program by virtue of learning, behavior, or health difficulties of the student or the student’s family.

“Expulsion” means the discontinuance of educational services or the discontinuance of payment of educational services for a student.

"Firearms" means items enumerated in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921.

“General education” means the educational programs and services provided to students other than students determined to be eligible for special education and related services pursuant to N.J.A.C. 6A:14-3.5 and 3.6.

“Guided-learning experiences” mean structured learning tasks that are assigned to the student to perform without the teacher being present, aligned to the school district curriculum and New Jersey Student Learning Standards, and designed to help the student to learn new or reinforce prior knowledge, practice skills, integrate knowledge and skills, or demonstrate mastery.

“Harassment, intimidation, or bullying” means any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, in accordance with N.J.S.A. 18A:37-14, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student’s property or placing a student in reasonable fear of physical or emotional harm to his

or her person or damage to his or her property; has the effect of insulting or demeaning any student or group of students; or creates a hostile educational environment for a student by interfering with the student's education or by severely or pervasively causing physical or emotional harm to the student.

"Home instruction" means the provision of one-to-one, small-group, or online instruction in the student's place of residence or other appropriate setting due to a health condition, need for treatment, court order, or exclusion from general education for conduct or safety reasons.

"Individualized emergency healthcare plan" means a plan written by the certified school nurse that specifies the delivery of healthcare accommodations and services needed by a student in the event of an emergency.

"Individualized Program Plan" (IPP) means a written plan developed for a general education student who has been assigned by the district board of education to home instruction, an alternative education program or who is being provided other educational services either in or out of school that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25. The IPP sets forth the student's present level of performance, measurable goals and short-term objectives or benchmarks that encompass behavioral and social competency as well as curriculum, and individually designed instructional activities to achieve the goals and objectives.

"Informal hearing" means a discussion between a school administrator and a student regarding the student's alleged misconduct, pursuant to N.J.A.C. 6A:16-7.2, Short-term suspensions, in which the student is informed of his or her alleged violation of the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, and the basis

for the accusation. During the informal hearing, the student is given the opportunity to explain his or her version of the facts and events regarding the alleged violation.

“Long-term suspension” means removal of a student for more than 10 consecutive school days from the general education program, or the special education program when the appropriate procedures set forth in N.J.A.C. 6A:14-2.8 have been followed, but not the cessation of the student’s educational services.

"Medical home" means a health care provider, including NJ FamilyCare providers as defined by N.J.S.A. 30:4J-12 and the provider’s practice site chosen by the student’s parent or guardian for the provision of health care.

"Medical staff" means employees of the district board of education serving as school physician, certified school nurse, noncertified nurse, advanced practice nurse, registered nurse, or licensed practical nurse.

"Medication" means a drug approved by the Federal Food and Drug Administration for preventing, caring for, and assisting in the cure of disease and injury that has a written order from a physician licensed in medicine, dentistry or osteopathy, or from an advanced practice nurse. Medication does not include herbal remedies.

"Noncertified nurse" means a person who holds a current license as a professional nurse from the State Board of Nursing and is employed by a district board of education or nonpublic school, and who is not certified as a school nurse by the Department of Education.

“Nursing services plan” means a plan that describes in detail the nursing services to be provided

throughout the school district based on the needs of its students, potential emergency situations, basic nursing services requirements, and the assignment of medical staff to provide the services.

"Parent" means the natural parent(s), adoptive parent(s), legal guardian(s), foster parent(s), or parent surrogate(s) of a student. When parents are separated or divorced, "parent" means the person or agency who has legal custody of the student, as well as the natural or adoptive parent(s) of the student, provided parental rights have not been terminated by a court of appropriate jurisdiction.

"Parent surrogate(s)" means an individual or individuals approved by the district board of education in accordance with N.J.A.C. 6A:32 to act on behalf of a student whose parent(s) is not available to assure the student's education rights.

"Physical examination" means the examination of the body by a professional licensed to practice medicine or osteopathy, or by an advanced practice nurse. The term includes specific procedures required by statute as stated in N.J.A.C. 6A:16-2.2.

"Referral for evaluation" means programs and services suggested to a student or his or her family to make a positive determination regarding a student's need for services that extend beyond the general school program.

"Referral for treatment" means programs and services suggested to a student or to his or her family:

1. To help implement the recommendations resulting from an evaluation, pursuant to N.J.A.C. 6A:16-1.3 and 4.1(c)5 and 6; or

2. In response to a positive alcohol or other drug test result, pursuant to N.J.A.C. 6A:16-4.4; or
3. In response to the family's request for assistance with a learning, behavior, or health difficulty, pursuant to N.J.A.C. 6A:16-4.1(c)7 and 8.

“School grounds” means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider. School grounds also includes school buses, school-sponsored functions, structures that support the buildings, such as school district wastewater treatment facilities; generating facilities; and other central service facilities including, but not limited to, kitchens and maintenance shops. School grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by municipalities, private entities or other individuals during times when the school district has exclusive use of a portion of the land.

“School safety/school climate team” means the designated individuals collectively responsible in each school to develop, foster, and maintain a positive school environment by focusing on the on-going systemic process and practices in the school and to address school climate issues.

“School-sponsored function” means any activity, event or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized and/or supported by the school.

“Short-term suspension” means removal of a student for one but not more than 10 consecutive school days from the general education program or the special education program, in accordance

with N.J.A.C. 6A:14-2.8, but not the cessation of the student’s educational services.

“Standing orders” means directives and protocols written by the school physician to carry out medical procedures for all students and staff.

“Student health record” means documented information relevant to the health of the student to manage the routine and emergency care of the student while school is in session.

"Substitute school nurse” means a person who holds a current license from the State Board of Nursing as a registered professional nurse and who has been issued a certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C. 6A:9B-6.5(i).

“Truancy” means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.6(a)3 and the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3.

“Universal precautions” means a set of procedures designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus, and other bloodborne pathogens.

"Weapon” means items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f).

“Written order” means a directive and protocol written by the student’s medical home to address a healthcare need or provide a medical service for a specific student.

SUBCHAPTER 7. STUDENT CONDUCT

6A:16-7.7 Harassment, intimidation, and bullying

- (a) Each district board of education shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds, pursuant to N.J.S.A. 18A:37-15.
1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.
 2. Each district board of education shall have control over the content of the policy, except that [[it]] **the policy** shall contain, at a minimum, the following components:
 - i. A statement prohibiting harassment, intimidation or bullying of a student;
 - ii. A definition of harassment, intimidation or bullying no less inclusive than that set forth in the definition at N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3;
 - iii. **A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;**
 - [iii.] iv. A description of the type of behavior expected from each student;
 - [iv.] v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior[.]; **the nature of the student's disability, if any, and to the extent relevant;** the developmental age of the student; and the student's history of problem behaviors and performance. [and that] **The appropriate remedial action also** may include the following:
 - (1) A behavioral assessment or evaluation, including, but not limited to, a referral to the child study team, as appropriate; and

- (2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;

[v.] **vi.** Consequences for a student who commits an act of harassment, intimidation, or bullying that are:

- (1) Varied and graded according to the nature of the behavior[.]; **the nature of the student’s disability, if any, and to the extent relevant;** the developmental age of the student; and the student’s history of problem behaviors and performance; and

- (2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;

[vi.] **vii.** Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;

[vii.] **viii.** A procedure **that allows** for reporting, verbally and in writing, an act of harassment, intimidation, or bullying[, including] **committed by an adult or youth against a student. The procedure also shall include** a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5)[;].

- (1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;

[viii.] **ix.** A procedure for prompt investigation of violation and complaint reports consistent with N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d[;].

- (1) **The procedure set forth in the district board of education policy may include, as part of the investigation, a process by which the principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an**

act of harassment, intimidation, or bullying, pursuant to N.J.S.A. 18A:37-14[[, prior to initiating an investigation]].

(2) The procedure also shall include a process by which the district board of education will investigate a complaint or report of harassment, intimidation, or bullying, pursuant to (a)ix(1) above, occurring on district board of education school buses, at school-sponsored functions, and off school grounds involving a student who attends an approved PSSD.

(A) The investigation conducted by the district board of education's anti-bullying specialist shall be in consultation with the approved PSSD.

[[(2)] (3) Investigations of complaints concerning adult conduct shall not be investigated by a member of the same bargaining unit as the individual who is the subject of the investigation.

[ix.] x. A requirement for the principal, in conjunction with the school anti-bullying specialist, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, consistent with the range of responses adopted by the board of education, pursuant to N.J.S.A. 18A:37-15.b(7);

(1) The responses, at a minimum, shall include support for victims of harassment, intimidation or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying;

xi. **A requirement that within five school days after the results of the harassment, intimidation, or bullying investigation are reported to the district board of education, information about the investigation shall**

be provided in writing to the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation.

(1) Any request by the parents or guardians for a hearing before the district board of education concerning the written information about a harassment, intimidation, or bullying investigation, pursuant to N.J.S.A. 18A:37-15.b(6)(d), shall be filed with the district board of education secretary no later than 45 calendar days after the written information is received by the parents or guardians.

(2) The hearing shall be held within 10 business days of receipt of the request.

[x.] **xii.** A statement that prohibits a district board of education member, school employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

[xi.] **xiii.** Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

[xii.] **xiv.** A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

(1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district;

[xiii.] **xv.** A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the school district's and each school's website;

[xiv.] **xvi.** A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;

[xv.] **xvii.** A requirement that the name of the school district's anti-bullying coordinator and his or her school phone number, school address, and school e-mail address be listed on the home page of the school district's website;

[xvi.] **xviii.** A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the school's website; and

[xvii.] **xix.** Provisions for appropriate responses to harassment, intimidation, or bullying, as defined in N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3, that occurs off school grounds in cases in which a school employee is made aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying.

(1) Responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with N.J.A.C. 6A:16-7.1 and 7.5 and this section.

- (b) A district board of education shall not be prohibited from adopting a harassment, intimidation, and bullying policy that includes components more stringent than components set forth in N.J.S.A. 18A:37-15 and (a) above.
- (c) A district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed **an incident of harassment, intimidation, or bullying**, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a)2viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying.
1. A district board of education member or school employee who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, and who makes the report in compliance with the district board of education's policy, is immune from a cause of action for damages arising from a failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16.c.
- (d) A school administrator who receives [from a school district employee] a report of harassment, intimidation, or bullying, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.
- (e) The district board of education shall:
1. Annually [review] **examine** the training needs of school employees and volunteers who have significant contact with students for the effective

implementation of the harassment, intimidation, [and] **or** bullying policies, procedures, programs, and initiatives of the district board of education and implement training programs for school employees and volunteers who have significant contact with students, consistent with [P.L. 2010, c.122, the] **N.J.S.A. 18A:37-17.b.**

i. The annual [review] **examination** of training needs [and] **shall take into consideration** the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.

[i.] **ii.** Information regarding the district board of education's policy against harassment, intimidation, and bullying shall be incorporated into the school district's employee training program.

(1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the school district to provide services to students;

2. Develop a process for annually discussing with students the school district's harassment, intimidation, and bullying policy;
3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and **any report(s) and/or finding(s) of the school safety/school climate team(s). The district board of education also shall** make any necessary revision(s) **to its policy**, consistent with N.J.S.A.

18A:37-15.c.

- i.** The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, **law enforcement**, school volunteers, students, and school administrators;
4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide

conditions to prevent or intervene in harassment, intimidation, and bullying in schools of the school district.

- i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, **law enforcement**, school volunteers, students, and school administrators; and
5. Submit to the executive county superintendent a copy of its approved harassment, intimidation, and bullying policy within 30 days of its adoption **or revision**.
- (f) The principal of each school in the school district shall appoint a school anti-bullying specialist to perform the functions established in N.J.S.A. 18A:37-20.a and c.
 - (g) The chief school administrator of the school district shall appoint a district anti-bullying coordinator to perform the functions established in N.J.S.A. 18A:37-20.b and c.
 - (h) The district board of education shall form a school safety/**school climate** team in each school in the school district to achieve the purposes and perform the functions established in N.J.S.A. 18A:37-21.
1. **Pursuant to N.J.S.A. 18A:37-21.b, the school safety/school climate team shall consist of the principal or his or her designee and the following members appointed by the principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.**
 - i. **A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality, pursuant to N.J.S.A. 18A:37-21.e.**

- ii. **Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student’s confidentiality.**
- (i) The requirements **of this section** are promulgated pursuant to N.J.S.A. 18A:37-13 through 32 and shall not be interpreted to prevent a victim **of harassment, intimidation, or bullying** from seeking redress under any other available civil or criminal law.

6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs)

- (a) **Each approved private school for students with disabilities (PSSD) shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds.**
1. **Each approved PSSD shall develop the policy to include approved PSSD school grounds, pursuant to N.J.A.C. 6A:16-1.3[~~], excluding sending district board of education school-sponsored functions and school buses~~].**
- i. The policy shall include a provision for initiating an investigation, pursuant to (a)3ix(7) below, in consultation with the sending district board of education when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education school bus or at school-sponsored functions;**

- 2. Each approved PSSD shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students;**
- 3. Each approved PSSD shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:**
 - i. A statement prohibiting harassment, intimidation, or bullying of a student;**
 - ii. A definition of harassment, intimidation, or bullying as set forth in the definition at N.J.A.C. 6A:16-1.3, except for incidents occurring off school grounds;**
 - iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;**
 - iv. A description of the type of behavior expected from all students;**
 - v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior, the nature of the student's disability, the developmental age of the student, and the student's history of problem behaviors and performance, and that may include the following:**
 - (1) A behavioral assessment or evaluation, including, but not limited to, a referral to the individualized education program team of the sending district board of education, as appropriate; and**
 - (2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;**

- vi. **Consequences for a student who commits an act of harassment, intimidation, or bullying that are:**
 - (1) **Varied and graded according to the nature of the behavior, the nature of the student’s disability to the extent relevant, the developmental age of the student, and the student’s history of problem behaviors and performance; and**
 - (2) **Consistent with the provisions of this subchapter, as appropriate, and N.J.A.C. 6A:14-7.6(f).**
- vii. **Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;**
- viii. **A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure shall also include a provision that permits a person to report anonymously.**
 - (1) **The approved PSSD shall not take formal disciplinary action based solely on the anonymous report; and**
 - (2) **Disciplinary action shall be consistent with the provisions of N.J.A.C. 6A:14-7.6(f);**
- ix. **A procedure for prompt investigation of violation and complaint reports.**
 - (1) **The full-time non-teaching principal, pursuant to N.J.A.C. 6A:14-7.6(d), or his or her designee, shall initiate the investigation within one school day of the initial report of the incident. The school anti-bullying specialist shall conduct the investigation and the full-time non-teaching principal may appoint additional personnel who are not school anti-bullying**

specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. If information relevant to the investigation is anticipated but not yet received by the end of the 10-school-day period, the school anti-bullying specialist may amend the initial report of the investigation results to reflect the information.

- (2) The anti-bullying specialist shall report the investigation results to the full-time non-teaching principal within two school days of the investigation's completion.**
- (3) The full-time non-teaching principal may provide intervention services; establish training programs to reduce harassment, intimidation, or bullying and to enhance school climate; and, in consultation and conjunction with the sending district board of education pursuant to N.J.A.C. 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation findings, or take or recommend other appropriate action.**
- (4) The full-time non-teaching principal shall report to the sending district board of education of the students who are parties to the harassment, intimidation, or bullying investigation the results of each investigation involving an incident found to be harassment, intimidation, or bullying no later than five school days following the investigation's completion, along with information on any service(s) provided; training established; and, pursuant to N.J.A.C. 6A:14-7.6(f), discipline imposed or**

other action taken or recommended by the full-time non-teaching principal.

- (5) In accordance with Federal and State law and regulation, the full-time non-teaching principal shall provide parents or guardians of students who are parties to the harassment, intimidation, or bullying investigation with information about the investigation, including the nature of the investigation, the findings, and whether discipline was imposed or services were provided, as appropriate, to address the incident of harassment, intimidation, or bullying. The full-time non-teaching principal shall provide the information in writing within five school days following the investigation's completion.**
- (6) A full-time non-teaching principal who receives a report of harassment, intimidation, or bullying and fails to initiate or conduct an investigation, or who has reason to believe an incident of harassment, intimidation, or bullying occurred and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.**
- (7) The procedure set forth in the approved PSSD policy may include, as part of the investigation, a process by which the full-time non-teaching principal, or his or her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or**

bullying, pursuant to (a)3ii above[[, prior to initiating an investigation]]];

- x. A requirement for the full-time non-teaching principal and school anti-bullying specialist[[, in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.1,]] to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs.**

(1) The responses, at a minimum, shall include support for a victim of harassment, intimidation, or bullying and corrective actions, pursuant to N.J.A.C. 6A:14-[[7.1]]7.6, for documented systemic problems related to harassment, intimidation, or bullying.

(2) Once an incident of harassment, intimidation, or bullying is identified, the full-time non-teaching principal shall determine the appropriate response to address the individual circumstances in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f), as appropriate;

- xi. A requirement that allows the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about a investigation, pursuant to (a)3ix(5) above.**

- (1) Any request for a hearing before the sending district board of education shall be filed within 45 calendar days after the written information about the harassment, intimidation, or bullying investigation, pursuant to (a)3ix(4) and (5) above, is received by the sending district board of education and the parents or guardians.
 - (2) The hearing before the sending district board of education shall be scheduled in collaboration with the PSSD and held by the sending district board of education within 10 [[school]] **business** days of the request. The approved PSSD and the sending district board of education shall coordinate the policies and procedures for conducting such hearings;
- xii. A statement that prohibits an approved PSSD's employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.
 - (1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;
- xiii. Consequences and appropriate remedial action identified in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f) for a student found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;
- xiv. A statement that a parent, student, guardian, or organization may file a complaint with the New Jersey Division on Civil Rights within 180

days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the Law Against Discrimination, P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.);

xv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in approved PSSD-sponsored functions and on school buses operated by the approved PSSD.

(1) Notice of the approved PSSD's policy shall appear in any publication of the approved PSSD that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1;

xvi. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the approved PSSD's website;

xvii. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents; and

xviii. A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the approved PSSD's website.

(b) An approved PSSD employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying, shall report the incident to the full-time non-teaching principal, pursuant to (a)3viii above, or to any school administrator or safe schools resource officer, who

shall immediately initiate the approved PSSD's procedures concerning harassment, intimidation, and bullying.

(c) The approved PSSD shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives and implement training programs for school employees and volunteers who have significant contact with students.

i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.

ii. Information regarding the approved PSSD's policy against harassment, intimidation, or bullying shall be incorporated into its training program.

(1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the approved PSSD to provide services to students;

2. Develop a process for annually discussing with students the approved PSSD's harassment, intimidation, and bullying policy;

3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The approved PSSD also shall make any necessary revision(s) to its policy, consistent with N.J.A.C. 6A:14-7.3(a), to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students.

- 2. Receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal;**
- 3. Receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;**
- 4. Identify and address patterns of harassment, intimidation, or bullying of students in the school;**
- 5. Review and strengthen school climate and school policies to prevent and address harassment, intimidation, or bullying of students;**
- 6. Educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students; and**
- 7. Execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal;**

(f) The school safety/school climate team shall consist of the full-time non-teaching principal, or his or her designee, and the following members appointed by the full-time non-teaching principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

- 1. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.**
- 2. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.**

3. **The approved PSSD shall provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches.**
- (g) **The section's requirements shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law.**

6A:16-[7.8]7.9 Student records and confidentiality

- (a) When a student transfers to a public school district from another public school district, all information in the student's record related to disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district in accordance with N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5.
 1. The record shall be provided within two weeks of the date the student enrolls in the receiving school district.
 2. Written consent of the parent or adult student shall not be required as a condition of the record transfer.
 - i. Written notice of the transfer shall be provided to the parent or the adult student.
- (b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records with respect to suspensions or expulsions shall be provided by the public school district of residence to the private school upon written request from the

private school, in the same manner the records would be provided to a public school district, pursuant to 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act.

- (c) A district board of education shall not use a student's past offenses on record to discriminate against the student.
- (d) All records maintained pursuant to this subchapter shall conform with the requirements set forth at 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student records and confidentiality.