

# BYLAW GUIDE

BYLAWS  
0145

Board Member Resignation and Removal  
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## 0145 BOARD MEMBER RESIGNATION AND REMOVAL

The membership of a Board of Education member shall terminate immediately upon:

1. The cessation of the member's bona fide residency in the school district the member represents (**N.J.S.A. 18A:12-2.2**); or
2. The member's election or appointment to the office of mayor or member of the governing body of Lopatcong Township (**N.J.S.A. 18A:12-2.2**); or
3. The member's disqualification from voting pursuant to N.J.S.A. 19:4-1 (**N.J.S.A. 18A:12-2.2**); or
4. The member falsely affirms or declares that he/she is not disqualified as a voter pursuant to N.J.S.A. 19:4-1 or that he/she is not disqualified from membership on the Board due to conviction of a crime or offense listed in N.J.S.A. 18A:12-1; or
5. The removal of the member by the Commissioner of Education; or
6. Recall of a Board member pursuant to N.J.S.A. 19:27A-1 et seq.

A member who fails to attend three consecutive meetings of the full Board without good cause may be removed from office on the affirmative votes by majority of the remaining Board members, provided that:

1. The member's removal was proposed at the immediately previous Board meeting; and
2. Notice of the proposed removal was given to the affected member at least forty-eight hours in advance of the meeting at which the vote will be taken.

N.J.S.A. 18A:12-2; **18A:12-2.2**; 18A:12-3; 18A:12-29

N.J.S.A. 19:27A-1 et seq.

Adopted:



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## 1643 FAMILY LEAVE

The Board of Education will provide family leave to staff members in accordance with the New Jersey Family Leave Act (NJFLA) and the Federal Family and Medical Leave Act (FMLA). These laws have similar and different provisions that provide different rights and obligations for a staff member and the Board.

If a staff member is eligible for leave for reasons recognized under both the FMLA and NJFLA, then the time taken shall run concurrently and be applied to both laws. The NJFLA provides twelve weeks leave in a twenty-four month period and the FMLA provides twelve weeks leave in a twelve month period

### A. New Jersey Family Leave Act

#### 1. Definitions Relative to New Jersey Family Leave Act

“Base Hours” means the hours of work for which a staff member receives compensation. Base hours shall include overtime hours for which a staff member is paid additional or overtime compensation, and hours for which a staff member receives workers’ compensation benefits. Base hours shall also include hours a staff member would have worked except for having been in military service. Base hours do not include hours for when a staff member receives other types of compensation, such as administrative, personal leave, vacation, or sick leave.

“Child” means a biological, adopted, foster child, or resource family child, stepchild, legal ward, or child of a parent, including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier.

“Eligible employee” means any individual employed by the same employer for twelve months or more, who has worked 1,000 or more base hours during the preceding twelve month period.



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“Employer” includes the State, any political subdivision thereof, and all public offices, agencies, boards, or bodies.

“Family member” means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood to a staff member, and any other individual that a staff member shows to have a close association with a staff member which is the equivalent of a family relationship.

“Health care provider” means a duly licensed health care provider or other health care provider deemed appropriate by the Director of the Division on Civil Rights in the New Jersey Department of Law and Public Safety.

“Parent” means a person who is the biological parent, adoptive parent, foster parent, resource family parent, step-parent, parent-in-law, or legal guardian, having a “parent-child relationship” with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or who became the parent of the child pursuant to a valid written agreement between the parent and a gestational carrier.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition which requires:

- a. Inpatient care in a hospital, hospice, or residential medical care facility; or
- b. Continuing medical treatment or continuing supervision by a health care provider.

As used in the definition of a serious health condition, “continuing medical treatment or continuing supervision by a health care provider” means:

- a. A period of incapacity (that is, inability to work, attend school, or perform regular daily activities due to a serious



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health condition, treatment therefore, and recovery therefrom) of more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- (1) Treatment two or more times by a health care provider; or
  - (2) Treatment by a health care provider on one occasion which results in a regimen of continuing treatment under the supervision of a health care provider;
- b. Any period of incapacity due to pregnancy, or for prenatal care;
  - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
  - d. A period of incapacity, which is permanent or long-term, due to a condition for which treatment may not be effective (such as Alzheimer's disease, a severe stroke, or the terminal stages of a disease) where the individual is under continuing supervision of, but need not be receiving active treatment by, a health care provider; or
  - e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).



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“Spouse” means a person to whom a staff member is lawfully married as defined by New Jersey law.

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“State of emergency” means a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of emergency has been declared by a municipal emergency management coordinator.

## 2. Reasons for NJFLA Leave

a. A staff member may take NJFLA leave to provide care made necessary by reason of:

- (1) The birth of a child of the staff member, including a child born pursuant to a valid written agreement between the staff member and the gestational carrier;
- (2) The placement of a child into foster care with the staff member or in connection with adoption of such child by a staff member;
- (3) The serious health condition of a family member of the staff member; or
- (4) A state of emergency declared by the Governor of New Jersey, or when indicated to be needed by the Commissioner of Health – New Jersey Department of Health or other public health authority, an epidemic or communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease which:
  - (a) Requires in-home care or treatment of a child due to the closure of the school or place of care of the child of a staff member,



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by order of a public official due to the epidemic or other public health emergency;

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- (b) Prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by a staff member would jeopardize the health of others; or
- (c) Results in the recommendation of a health care provider or public health authority, that a family member in need of care by a staff member voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by a staff member, would jeopardize the health of others.

### 3. Staff Member Eligibility

- a. NJFLA leave may be taken for up to twelve weeks within any twenty-four month period. The NJFLA leave shall be unpaid with benefits subject to contributions required to be made by the staff member.
- b. A staff member is eligible for NJFLA leave if a staff member is employed by the same Board for twelve months or more, and has worked 1,000 or more base hours during the preceding twelve month period.



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- c. The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs shall be a “rolling” twenty-four month period measured backward from the date a staff member uses any leave under NJFLA.
- d. This Policy shall serve as notice to all staff members of the method chosen in A.3.c. above. This method shall be applied consistently and uniformly to all staff members.
  - (1) If the Board transitions to another method, the Board is required to give at least sixty days’ notice to all staff members and the transition must take place in such a way that staff members retain their full benefit of twelve weeks of NJFLA leave under whichever method affords the greatest benefit to a staff member.
- e. The Board shall grant NJFLA leave to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for NJFLA leave.
- f. The fact that a holiday may occur within the week taken by a staff member as NJFLA leave has no effect and the week is counted as a week of NJFLA leave.



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- (1) However, if a staff member is out on NJFLA leave and the staff member is not regularly scheduled to work for one or more weeks, the weeks the staff member is not regularly scheduled to work do not count against their NJFLA leave entitlement.

## 4. Types of NJFLA Leave

- a. Staff members are required to provide notice in writing for any NJFLA leave requested. In emergent circumstances, a staff member may provide the Board with oral notice when written notice is impracticable.
  - (1) Staff members must provide the Board written notice after submitting oral notice in emergent circumstances.
- b. Consecutive NJFLA leave is NJFLA leave that is taken without interruption based upon a staff member's regular work schedule and does not include breaks in employment in which a staff member is not regularly scheduled to work.
  - (1) A staff member must provide the Board with notice of consecutive NJFLA leave no later than thirty days prior to the commencement of consecutive NJFLA leave, except where emergent circumstances warrant shorter notice.
  - (2) A staff member shall provide the Board with certification pursuant to A.5. below.
- c. Intermittent NJFLA leave is NJFLA leave due to a single qualifying reason, taken in separate periods of time, broken up by periods in which the staff member returns to work.





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- (1) A staff member is entitled to take NJFLA leave intermittently for the birth of a child of the staff member, including a child born pursuant to a valid written agreement between the staff member and a gestational carrier or the placement of a child into foster care with the staff member or in connection with adoption of such child by the staff member.
  - (a) The staff member shall provide the Board with prior notice of not less than fifteen calendar days before the first day on which NJFLI benefits are paid for the intermittent NJFLA leave, unless an emergency or other unforeseen circumstance precludes prior notice.
  - (b) The staff member shall make a reasonable effort to schedule the intermittent NJFLA leave so as not to unduly disrupt the operations of the Board and, if possible, provide the Board, prior to the commencement of intermittent NJFLA leave, with a regular schedule of the days or days of the week on which the intermittent NJFLA leave will be taken.
  - (c) A staff member shall provide the Board with certification for intermittent NJFLA leave pursuant to A.5.b. below.
- (2) The staff member is entitled to take intermittent NJFLA leave for the serious health condition of a family member of the staff member when medically necessary if:



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- (a) The total time which the intermittent NJFLA leave is taken does not exceed twelve months if taken in connection with a single serious health condition. If the intermittent NJFLA leave is taken in connection with more than one serious health condition, the intermittent NJFLA leave must be taken within a consecutive twenty-four month period or until such time the twelve week NJFLA leave is exhausted, whichever is shorter;
- (b) The staff member provides the Board with prior notice of not less than fifteen calendar days before the first day on which benefits are paid for the intermittent NJFLA leave.
  - (i) The staff member may provide notice less than fifteen days prior to the intermittent NJFLA leave if an emergency or other unforeseen circumstance precludes prior notice;
- (c) The staff member makes a reasonable effort to schedule the intermittent NJFLA leave so as not to unduly disrupt the operations of the school district and, if possible, provide the school district, prior to the commencement of intermittent NJFLA leave, with a regular schedule of the days or days of the week on which the intermittent NJFLA leave will be taken; and
- (d) The staff member provides the Board with a copy of the certification outlined in A.5.c. below.



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- (3) In the case of NJFLA leave taken due to an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of the communicable disease, the NJFLA leave may only be taken intermittently if:
  - (a) The staff member provides the Board with prior notice of the intermittent NJFLA leave as soon as practicable;
  - (b) The staff member makes a reasonable effort to schedule the NJFLA leave so as not to unduly disrupt the operations of the school district and, if possible, provide the school district prior to the commencement of the intermittent NJFLA leave, with a regular schedule of the day or days of the week on which the intermittent NJFLA leave will be taken; and
  - (c) A staff member provides the Board with a copy of the certification outlined in A.5.d. below.
- (4) Intermittent leave taken on a reduced leave schedule is NJFLA leave due to a single qualifying reason, that is scheduled for fewer than a staff member's usual number of hours worked per workweek, but not for fewer than a staff member's usual number of hours worked per workday and may only be taken to care for the serious health condition of a family member of a staff member when medically necessary, except that:
  - (a) A staff member shall not be entitled to intermittent NJFLA leave on a reduced leave schedule for a period exceeding twelve consecutive months for any one period of NJFLA leave;



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- (b) The staff member must provide the Board with prior notice of the intermittent NJFLA leave on a reduced leave schedule as soon as practicable;
  - (c) A staff member shall make a reasonable effort to schedule intermittent NJFLA leave on a reduced leave schedule so as not to disrupt unduly the operations of the school district. A staff member shall provide the school district with prior notice of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member, in a manner which is reasonable and practicable; and
  - (d) A staff member must provide the Board with a copy of the certification outlined in A.5.c. below.
- d. NJFLA leave taken because of the birth or placement for adoption of a child of the staff member may commence at any time within a year after the date of the foster care placement, birth, or placement for adoption.
- e. A staff member shall not, during any period of NJFLA leave, perform services on a full-time basis for any person for whom a staff member did not provide those services immediately prior to commencement of the NJFLA leave.
- (1) A staff member on NJFLA leave may not engage in other full-time employment during the term of the NJFLA leave, unless such employment commenced prior to the NJFLA leave and is not otherwise prohibited by law.



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- (2) During the term of NJFLA leave a staff member may commence part-time employment which shall not exceed half the regularly scheduled hours worked for the Board from whom a staff member requested NJFLA leave. A staff member may continue part-time employment which commenced prior to a staff member's NJFLA leave, at the same number of hours that a staff member was regularly scheduled prior to such NJFLA leave.
- (3) The Board may not maintain a policy or practice which prohibits part-time employment during the course of a NJFLA leave.

## 5. Certification

- a. The Board shall require a staff member who requests NJFLA leave to sign a form of certification established by the Board attesting that such staff member is taking NJFLA leave in accordance with the law.
  - (1) The Board may not require a staff member to sign or otherwise submit a form of certification attesting to additional facts, including a staff member's eligibility for NJFLA leave.
  - (2) The Board may subject a staff member to reasonable disciplinary measures, depending on the circumstances, when a staff member intentionally misrepresents the reason that such staff member is taking NJFLA leave.
  - (3) The form of certification established by the Board shall contain a statement warning a staff member of the consequences of refusing to sign the certification or falsely certifying. Any staff member who refuses to sign the certification established by the Board may be denied the requested NJFLA leave.



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- (4) The Board requires that any period of NJFLA leave be supported by certification issued by a health care provider.
- b. Where the certification, issued by the health care provider, is for the birth of a child of a staff member, including a child born pursuant to a valid written agreement between the staff member and a gestational carrier or the placement of a child into foster care with the staff member or in connection with adoption of such child by the staff member, the certification need only state the date of birth or date of placement, whichever is appropriate.
  - c. Any period of NJFLA leave for the serious health condition of a family member of a staff member shall be supported by certification provided by a health care provider. The certification shall be sufficient if it states:
    - (1) The date, if known, on which the serious health condition commenced;
    - (2) The probable duration of the condition;
    - (3) The medical facts within the knowledge of the provider of the certification regarding the condition;
    - (4) The serious health condition warrants the participation of the staff member in providing health care to the family member, as provided in the “Family Leave Act,” P.L. 1989, c.261 (C.34:11B-1 et seq.) and regulations adopted pursuant to the NJFLA;
    - (5) An estimate of the amount of time the staff member is needed for participation in the care of the family member;



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- (6) If the NJFLA leave is intermittent, a statement of the medical necessity for the intermittent NJFLA leave and the expected duration of the intermittent NJFLA leave; and
  - (7) If NJFLA leave is intermittent and for planned medical treatment, the dates of the treatment.
- d. In any case in which the Board has reason to doubt the validity of the certification provided pursuant to A.5.c. above, the Board may require, at its own expense, that a staff member obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the Board. If the second opinion differs from the certification provided pursuant to A.5.c. above, the Board may require, at its own expense, that a staff member obtain the opinion of a third health care provider designated or approved jointly by the Board and a staff member concerning the serious health condition. The opinion of the third health care provider shall be considered to be final and shall be binding on the Board and a staff member.
- e. Where the certification is for an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent the spread of the communicable disease, the certification shall be sufficient if it includes:
- (1) For NJFLA leave taken to provide in-home care or treatment of a child due to the closure of the school or place of care of the child of a staff member, by order of a public official due to the epidemic or other public health emergency, the date on which the closure of the school or place of care of the child of a staff member commenced and the reason for such closure;



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- (2) For NJFLA leave taken due to a public health authority's issuance of a determination requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by a staff member would jeopardize the health of others, the date of issuance of the determination, and the probable duration of the determination; or
  - (3) For NJFLA leave taken because a health care provider or public health authority recommends that a family member in need of care by a staff member voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by a staff member would jeopardize the health of others, the date of the recommendation, the probable duration of the condition, and the medical or other facts within the health care provider or public health authority's knowledge regarding the condition.
- f. The Board shall not use the certification requirements as outlined in A.5. to intimidate, harass, or otherwise discourage a staff member from requesting or taking NJFLA leave or asserting any of a staff member's rights to NJFLA leave.
6. Denial or Exemption of NJFLA Leave
- a. Denial of NJFLA Leave
    - (1) The Board may deny NJFLA leave to a staff member if:





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- (a) A staff member is a salaried staff member who is among the highest paid 5% of the Board's staff members or the seven highest paid staff members of the Board, whichever is greater;
- (b) The denial is necessary to prevent substantial and grievous economic injury to the Board's operations; and
- (c) The Board notifies a staff member of its intent to deny the NJFLA leave at the time the Board determines that the denial is necessary.

(2) The provisions of A.6.a.(1) above shall not apply when, in the event of a state of emergency declared by the Governor of New Jersey or when indicated to be needed by the Commissioner of Health – New Jersey Department of Health or other public health authority, the NJFLA leave is for an epidemic of a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent spread of a communicable disease.

(3) In any case in which NJFLA leave has already commenced at the time of the notification pursuant to A.6.a.(1)(c) above, a staff member shall return to work within ten working days of the date of notification.

## 7. Reinstatement from NJFLA Leave

- a. Upon the expiration of a NJFLA leave, a staff member shall be restored to the position such staff member held immediately prior to the commencement of the NJFLA leave. If such position has been filled, the Board shall reinstate such staff member to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment.



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- b. If, during NJFLA leave, the Board experiences a reduction in force or layoff and a staff member would have lost their position had a staff member not been on NJFLA leave, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under a collective bargaining agreement where applicable, a staff member shall not be entitled to reinstatement to the former or an equivalent position. A staff member shall retain all rights under any applicable layoff and recall system, including a system under a collective bargaining agreement, as if a staff member had not taken the NJFLA leave.

## 8. Notice to Staff Members

- a. The Board shall display the official Family Leave Act poster of the Division on Civil Rights in the New Jersey Department of Law and Public Safety (Division) in accordance with N.J.A.C. 13:8-2.2. The poster is available for printing from the Division's website.
- b. Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights pursuant to N.J.A.C. 13:14-1.14.

## 9. Local Board of Education Practices

- a. Accrued Paid NJFLA Leave
  - (1) Whether a staff member is required to use any other accrued leave time concurrent with NJFLA leave time will depend upon either the school district's practice or a provision in a collective bargaining agreement, if applicable.
    - (a) Sick leave may only be used concurrently with the NJFLA leave in accordance with the provisions of N.J.S.A. 18A:30-1 and N.J.S.A. 34:11B-3.



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- b. Multiple Leaves of Absence
    - (1) Where a Board maintains leaves of absence which provide benefits, other than health benefits, that differ depending upon the type of leave taken, the Board shall provide those benefits to a staff member on NJFLA leave in the same manner as it provides benefits to staff members who are granted other leaves of absence which most closely resemble NJFLA leave.
10. New Jersey Family Leave Insurance Program (NJFLI)
- a. Board of Education staff members are eligible to apply for benefits under the NJFLI Program administered by the State of New Jersey Department of Labor and Workforce Development.
  - b. All applications for benefits under the NJFLI Program must be filed directly with the State of New Jersey Department of Labor and Workforce Development. The eligibility requirements, wage requirements, benefit duration and amounts, and benefit limitations shall be in accordance with the provisions of the NJFLI Program as administered by the State of New Jersey Department of Labor and Workforce Development. A formal appeal may be submitted to the State of New Jersey Department of Labor and Workforce Development if an employee or the Board disagrees with a determination on a claim.
  - c. The NJFLI Program provides eligible individuals a monetary benefit and not a leave benefit. The school district administrative and related staff will comply with the State of New Jersey Department of Labor and Workforce Development requests for information in accordance with the provisions of N.J.A.C. 12:21-3.9.



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- d. A printed notification of staff members' rights relative to the receipt of benefits under the NJFLI Program will be posted in each of the school district worksites and in a place or places accessible to all employees at the worksite.
- e. Each staff member shall receive a copy of this notification in writing at the time of the staff member's hiring, whenever the staff member provides written notice to the Superintendent of their intention to apply for benefits under the NJFLI Program, or at any time upon the first request of the staff member.
  - (1) The written notification may be transmitted to the staff member in electronic form.
  - (2) Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights under the NJFLI Program.

## B. Federal Family and Medical Leave Act

### 1. Definitions Relative to Federal Family and Medical Leave Act

"Covered Employer" means any public or private elementary or secondary school(s) regardless of the number of employees employed.

"Employee" means a staff member eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).

"Hours of Service" means hours actually worked by the employee. It does not mean hours paid. Thus, non-working time – such as vacations, holidays, furloughs, sick leave, or other time-off (paid or otherwise) – does not count for purposes of calculating FMLA eligibility for the employee.

"Parent" means a biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to a staff member when a staff member has a son or daughter as defined below. This term does not include parents "in law."



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“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider. “Serious health condition” may include treatment of substance abuse pursuant to 29 CFR §825.119.

“Son” or “daughter” means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen or age eighteen or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

“Spouse” means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex marriage or common law marriage.

“Week” or “Workweek” means the number of days a staff member normally works each calendar week.

## 2. Qualifying Reasons for FMLA Leave

- a. A staff member may take FMLA leave to provide care made necessary:
  - (1) For the birth of a son or daughter of a staff member and in order to care for such son or daughter;
  - (2) For the placement of a son or daughter with a staff member for adoption or foster care;
  - (3) In order to care for the spouse, son, daughter, or parent of a staff member if such spouse, son, daughter, or parent has a serious health condition;



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- (4) For a serious health condition that makes a staff member unable to perform the functions of the position of such staff member.
    - b. FMLA leave taken in relation to military service shall be in accordance with 29 CFR §825.112.
    - c. Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with a staff member for adoption or foster care shall expire at the end of the twelve month period beginning on the date of such birth or placement.
3. Staff Member Eligibility
  - a. A staff member is eligible for up to twelve weeks of FMLA leave in a twelve month period.
  - b. A staff member shall become eligible for FMLA leave after the staff member has been employed at least twelve months by the Board and employed for at least 1,250 hours of service during the twelve month period immediately preceding the commencement of the FMLA leave.
    - (1) The twelve months a staff member must have been employed need not be consecutive months pursuant to 29 CFR §825.110(b).
    - (2) The minimum 1,250 hours of service shall be determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work pursuant to 29 CFR §785.
    - (3) The Board shall not provide pay for FMLA leave.



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- c. The method to determine the twelve month period in which the twelve weeks of FMLA leave entitlement occurs will be a “rolling” twelve month period measured backward from the date a staff member uses any FMLA leave.
  - d. Pursuant to 29 CFR §825.201, a husband and wife both employed by the Board are limited to a combined total of twelve weeks of FMLA leave during the twelve month period if the FMLA leave is taken for the birth of a son or daughter of a staff member or to care for such son or daughter after birth; for placement of a son or daughter with a staff member for adoption or foster care or in order to care for the son or daughter after placement; or to care for a staff member’s parent with a serious health condition.
4. Types of FMLA leave
- a. Continuous FMLA leave is taken by staff members for a continuous period of time. Such FMLA leave is not broken up by a period of work and is continuous when a staff member is absent for three consecutive working days or more. Continuous FMLA leave may be taken for any qualifying reason.
  - b. Intermittent FMLA leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced FMLA leave schedule is a FMLA leave schedule that reduces a staff member’s usual number of working hours per workweek, or hours per workday. A reduced FMLA leave schedule is a change in a staff member’s schedule for a period of time, normally from full-time to part-time.
    - (1) Intermittent or reduced FMLA leave may be taken for the following qualifying reasons:
      - (a) For the serious health condition of the staff member or to care for a parent, son, or daughter with a serious health condition.



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- (i) For intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule taken for the reason outlined in B.4.b.(1)(a) above there must be a medical need for FMLA leave and it must be that such medical need can be best accommodated through an intermittent or reduced FMLA leave schedule.
  - (ii) The treatment regimen and other information described in the certification of a serious health condition and in the certification of a serious injury or illness, shall address the medical necessity of intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule.
  - (iii) Intermittent FMLA leave may be taken for a serious health condition of a parent, son, or daughter, for a staff member's own serious health condition, which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include FMLA leave of periods from an hour or more to several weeks.
- (b) For planned and/or unanticipated medical treatment of a serious health condition when medically necessary.
  - (c) To provide care or psychological comfort to a covered family member with a serious health condition when medically necessary.





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- (d) For absences where a staff member or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.
- (e) For FMLA leave taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, only if the Board agrees.
  - (i) The Board's agreement is not required; however, for FMLA leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.
- (2) If a staff member needs FMLA leave intermittently or on a reduced FMLA leave schedule for planned medical treatment, then a staff member must make a reasonable effort to schedule the treatment so as not to disrupt unduly the Board's operations.
- (3) When a staff member takes FMLA leave on an intermittent or reduced FMLA leave schedule basis, the Board must account for the FMLA leave using an increment no greater than the shortest period of time that the Board uses to account for use of other forms of leave provided that it is not greater than one hour and provided further that a staff member's FMLA leave entitlement may not be reduced by more than the amount of FMLA leave actually taken.



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- (a) If the Board accounts for use of leave in varying increments at different times of the day or shift, the Board may not account for FMLA leave in a larger increment than the shortest period used to account for other leave during the period in which the FMLA leave is taken.
- (b) If the Board accounts for other forms of leave use in increments greater than one hour, the Board must account for FMLA leave use in increments no greater than one hour.

## 5. Staff Member Notice Requirements

- a. A staff member eligible for FMLA leave must give at least a thirty day written advance notice to the Superintendent or designee if the need for the FMLA leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of a staff member or a family member.
  - (1) If thirty days is not practical, a staff member must provide notice “as soon as practicable” which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case.
  - (2) Where it is not possible to give as much as thirty days’ notice, “as soon as practical” ordinarily would mean at least verbal notification to the Superintendent or designee within one or two business days or when the need for FMLA leave becomes known to a staff member.
  - (3) The written notice shall include the reasons for the FMLA leave, the anticipated duration of the FMLA leave, and the anticipated start of the FMLA leave.



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- (4) When planning medical treatment, a staff member must consult with the Superintendent or designee and make a reasonable effort to schedule the FMLA leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider.
  - (a) Staff members are ordinarily expected to consult with the Superintendent or designee prior to scheduling of treatment that would require FMLA leave for a schedule that best suits the needs of the Board and a staff member.
- (5) Intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule must be medically necessary due to a serious health condition or a serious injury or illness. A staff member shall advise the Board of the reasons why the intermittent/reduced FMLA leave schedule is necessary and of the schedule for treatment, if applicable.
  - (a) A staff member and the Board shall attempt to work out a schedule for such FMLA leave that meets a staff member's needs without unduly disrupting the Board's operations, subject to the approval of the health care provider.
- (6) Where a staff member does not comply with the Board's usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.



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- b. When the approximate timing of the need for FMLA leave is not foreseeable, a staff member should give notice to the Superintendent or designee for FMLA leave as soon as practicable under the facts and circumstances of the particular case.
  - (1) It is expected a staff member will give notice to the Superintendent or designee within no more than one or two business days of learning of the need for FMLA leave, except in extraordinary circumstances where such notice is not foreseeable.
  - (2) A staff member should provide notice to the Board either in person, by telephone, telegraph, fax machine, email, or other electronic means.
- 6. Outside Employment During FMLA Leave
  - a. A staff member during any period of FMLA leave is prohibited from performing any services on a full-time basis for any person for whom a staff member did not provide services immediately prior to commencement of the FMLA leave.
    - (1) A staff member using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the Board.
    - (2) A staff member may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that a staff member was regularly scheduled prior to such FMLA leave.
- 7. “Instructional Employees” Exceptions for FMLA Leave
  - a. “Instructional Employees” are those staff members whose principal function is to teach and instruct students in class, a small group, or in an individual setting. This term includes teachers, athletic coaches, driving instructors, and



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special education assistants, such as signers for the hearing impaired.

- (1) Teacher assistants or aides who do not have as their principal job actual teaching or instructing, guidance counselors, child study team members, curriculum specialists, cafeteria workers, maintenance workers, and/or bus drivers are not considered instructional staff members for the purposes of this Policy.
  - (2) For purposes of this Policy “Instructional Employees” shall be referred to as “Instructional Staff Members”.
- b. “Semester” means the school semester that typically ends near the end of the calendar year and the end of the spring each school year. The Board can have no more than two semesters in a school year.
  - c. FMLA leave taken at the end of the school year and continues into the beginning of the next school year is considered consecutive FMLA leave.
  - d. Eligible instructional staff members that need intermittent or reduced FMLA leave to care for a family member or for a staff member’s own serious health condition which is foreseeable based on planned medical treatment and would be on FMLA leave more than twenty percent of the total number of working days over the period the FMLA leave would extend, the Board may:
    - (1) Require a staff member to take the FMLA leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or



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- (2) Transfer a staff member temporarily to an available alternative position for which a staff member is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of FMLA leave than does a staff member's regular position.
- e. If the instructional staff member does not give the required notice for FMLA leave that is foreseeable and desires the FMLA leave to be taken intermittently or on a reduced FMLA leave schedule, the Board may require a staff member to take FMLA leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the Board may require a staff member to delay taking the FMLA leave until the notice provision is met.
- f. If an instructional staff member begins FMLA leave more than five weeks before the end of the school year, the Board may require a staff member to continue taking FMLA leave until the end of the semester if:
  - (1) The FMLA leave will last three weeks; and
  - (2) A staff member would return to work during the three-week period before the end of the semester.
- g. If an instructional staff member begins FMLA leave for a purpose other than a staff member's own serious health condition during the five week period before the end of the semester, the Board may require a staff member to continue taking FMLA leave until the end of the semester if:
  - (1) The FMLA leave will last more than two weeks; and
  - (2) The staff member would return to work during the two week period before the end of the semester.



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- h. If an instructional staff member begins FMLA leave for a purpose other than a staff member's own serious health condition during the three week period before the end of a semester, the Board may require a staff member to continue taking FMLA leave until the end of the semester if the FMLA leave will last more than five working days.
  - i. An example of FMLA leave falling within the situations outlines in B.7.f., B.7.g., and B.7.h. above:
    - (1) If a staff member plans two weeks of FMLA leave to care for a family member which will begin three weeks before the end of the term, the Board could require a staff member to stay out on FMLA leave until the end of the term.
  - j. In the case of a staff member who is required to take FMLA leave until the end of an academic term, only the period of FMLA leave until a staff member is ready and able to return to work shall be charged against a staff member's FMLA leave entitlement.
  - k. The Board may require a staff member to stay on FMLA leave until the end of the school term. Any additional leave required by the Board to the end of the school term is not counted as FMLA leave; however:
    - (1) The Board shall be required to maintain a staff member's group health insurance; and
    - (2) The Board shall be required to restore a staff member to the same or equivalent job including other benefits at the conclusion of the leave.
8. FMLA Leave Related to Military Service
- a. Definitions for FMLA related to military service shall be in accordance with 29 CFR §§825.122; .126; .127; and .310.



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- b. The foreign deployment of the staff member's spouse, child, or parent in accordance with 29 CFR §§825.122 and .126:
  - (1) The district must grant an eligible staff member up to twelve work weeks of unpaid, job-protected FMLA leave during any twelve month period for qualifying exigencies that arise when the staff member's spouse, child, or parent is on covered active duty, or has been notified of an impending call or order to covered active duty.
- c. Military caregiver FMLA leave provides care for a covered servicemember with a serious injury or illness in accordance with 29 CFR §§825.122 and .127:
  - (1) The district must grant up to a total of twenty-six workweeks of unpaid, job-protected FMLA leave during a "single twelve month period" to care for a covered servicemember with a serious injury or illness.

## 9. Verification

- a. The Board shall require that a staff member's FMLA leave to care for a staff member's covered family member with a serious health condition, or due to a staff member's own serious health condition that makes a staff member unable to perform one or more of the essential functions of a staff member's position, be supported by a certification issued by the health care provider of a staff member or a staff member's family member.
  - (1) The Board must give written notice of a requirement for certification each time a certification is required. The Board's oral request to a staff member to furnish any subsequent certification is sufficient.





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- b. The Board shall require a staff member furnish certification at the time a staff member gives notice of the need for FMLA leave or within five business days thereafter, or, in the case of unforeseen FMLA leave, within five business days after the FMLA leave commences.
  - (1) The Board may request certification at some later date if the Board later has reason to question the appropriateness of the FMLA leave or its duration.
  - (2) A staff member must provide the requested certification to the Board within fifteen calendar days after the Board's request, unless it is not practicable under the particular circumstances to do so despite a staff member's diligent, good faith efforts or the Board provides more than fifteen calendar days to return the requested certification.
  
- c. When FMLA leave is taken because of a staff member's own serious health condition, or the serious health condition of a family member, the Board shall require a staff member to obtain a medical certification from a health care provider that sets forth the following information:
  - (1) The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
  - (2) The approximate date on which the serious health condition commenced, and its probable duration;
  - (3) A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for FMLA leave.



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- (a) Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;
- (4) If a staff member is the patient, information sufficient to establish that a staff member cannot perform the essential functions of a staff member's job as well as the nature of any other work restrictions, and the likely duration of such inability;
- (5) If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care, and an estimate of the frequency and duration of the FMLA leave required to care for the family member;
- (6) If a staff member requests FMLA leave on an intermittent or reduced schedule basis for planned medical treatment of a staff member's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule FMLA leave and an estimate of the dates and duration of such treatments and any periods of recovery;
- (7) If a staff member requests FMLA leave on an intermittent or reduced schedule basis for a staff member's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule FMLA leave and an estimate of the frequency and duration of the episodes of incapacity; and



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- (8) If a staff member requests FMLA leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such FMLA leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required FMLA leave.
- d. A staff member may choose to comply with the certification requirement by providing the Board with an authorization, release, or waiver allowing the Board to communicate directly with the health care provider of a staff member or his or her covered family member.
  - (1) It is a staff member's responsibility to provide the Board with complete and sufficient certification and failure to do so may result in the denial of FMLA leave.
- e. If the Board has reason to doubt the validity of a medical certification, the Board may require a staff member to obtain a second opinion at the Board's expense.
  - (1) The Board may designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the Board.
- f. If the opinions of a staff member's and the Board's designated health care providers differ, the Board may require a staff member to obtain certification from a third health care provider, again at the Board's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the Board and the staff member.



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## 10. Reinstatement Following FMLA Leave

- a. On return from FMLA leave a staff member is entitled to be returned to the same position a staff member held when FMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
  - (1) A staff member is entitled to such reinstatement even if a staff member has been replaced or his or her position has been restructured to accommodate for a staff member's absence.
  - (2) The requirement that a staff member be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to de minimis, intangible, or unmeasurable aspects of the job.
- b. Denial of Reinstatement
  - (1) A staff member has no greater right to reinstatement or to other benefits and conditions of employment that if a staff member had been continuously employed during the FMLA leave period.
    - (a) The Board must be able to show that a staff member would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.
  - (2) The Board may deny job restoration to "key employees", if such denial is necessary to prevent substantial and grievous economic injury to the operations of the Board.



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- (a) A “key employee” is a salaried FMLA-eligible staff member who is among the highest paid ten percent of all staff members employed by the Board within seventy-five miles of a staff member's worksite.
- (3) If a staff member is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition or an injury or illness also covered by workers’ compensation, a staff member has no right to restoration to another position under the FMLA.
  - (a) The Board’s obligation may; however, be governed by the Americans with Disabilities Act, State leave law, or workers’ compensation laws.
- (4) A staff member who fraudulently obtains FMLA leave from the Board is not protected by FMLA's job restoration or maintenance of health benefits provisions.
- c. Intent to Return to Work
  - (1) The Board may require a staff member on FMLA leave to report periodically on a staff member's status and intent to return to work.



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d. Fitness for Duty Certification

- (1) As a condition of restoring a staff member whose FMLA leave was a result of a staff member's own serious health condition that made a staff member unable to perform a staff member's job, the Board shall require all similarly-situated staff members (i.e., same occupation, same serious health condition) who take FMLA leave for such conditions to obtain and present certification from a staff member's health care provider that a staff member is able to resume work.
- (2) A staff member has the same obligations to participate and cooperate in the fitness-for-duty certification process as in the initial certification process.

11. The Board of Education Notice

a. Notice of Staff Member Rights Under FMLA

- (1) The Board shall post and keep posted on its premises, in conspicuous places where staff members are employed, a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints of violations of the FMLA with the Wage and Hour Division.
  - (a) The notice will be posted prominently where it can be readily seen by staff members and applicants for employment.
  - (b) The poster and the text will be large enough to be easily read and contain fully legible text.
  - (c) Electronic posting is sufficient to meet this posting requirement as long as it otherwise meets the requirements of B.11.



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- (2) The Board shall also provide this general notice to each staff member by including the notice in staff members' handbooks or other written guidance to staff members concerning staff member benefits or FMLA leave rights, if such written materials exist, or by distributing a copy of the general notice to each new staff member upon hiring. In either case, distribution may be accomplished electronically.
  - (3) Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights pursuant to 29 CFR §825 et seq.
- b. Eligibility Notice
- (1) When a staff member requests FMLA leave, or when the Board acquires knowledge that a staff member's FMLA leave may be for an FMLA-qualifying reason, the Board must notify the staff member of the staff member's eligibility to take FMLA leave within five business days, absent extenuating circumstances.
- c. Designation Notice
- (1) The Board is responsible in all circumstances for designating leave as FMLA-qualifying, and for giving notice of the designation to a staff member. The Board must notify a staff member whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances.
  - (2) If the Board requires paid leave to be substituted for unpaid FMLA leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, the Board must inform a staff member of this designation at the time of designating the FMLA leave.



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## 12. Local Board of Education Practices

### a. Substitution of Paid Leave

- (1) Whether a staff member is required to use sick time or any other accrued leave time concurrent with FMLA leave time will depend upon either the district's practice or a provision in the district's collective bargaining agreement, if applicable.

### b. Maintenance of Staff Member Benefits

- (1) The Board must maintain a staff member's coverage under any group health plan on the same conditions as coverage would have been provided if a staff member had been continuously employed during the entire FMLA leave period.

## C. Shared Provisions

### 1. Interference with Family Leave Rights

The NJFLA and the FMLA prohibit interference with a staff member's rights under the law, and with legal proceedings or inquiries relating to a staff member's rights. Unless permitted by the law, no staff member shall be required to take family leave or to extend family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his/her rights under the NJFLA and the FMLA nor discouraged from the use of family leave.

### 2. Non-Tenured Teaching Staff

Family leave granted to a nontenured staff member cannot extend a staff member's employment beyond the expiration of his/her employment contract.

### 3. Record Keeping

The Superintendent or designee shall ensure the keeping of accurate attendance records that distinguish family leave from





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other kinds of leave so a staff member's entitlement to NJFLA leave and FMLA leave can be properly determined.

#### 4. Processing of Complaints

##### a. New Jersey Family Leave Act

- (1) Any complaint alleging a violation of the NJFLA shall be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.

##### b. Federal Family and Medical Leave Act (FMLA)

- (1) If there is a dispute between the Board and a staff member as to whether leave qualifies as FMLA leave, it should be resolved through discussion between the staff member and the Superintendent or designee. Such discussions and the decision shall be documented by the Superintendent or designee.
- (2) A staff member also may file, or have another person file on his/her behalf, a complaint with the United States Secretary of Labor. A complaint may be filed in person, by mail, or by telephone with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, at any local office of the Wage and Hour Division.
- (3) This Policy 1643 shall be posted on the school district website, in a manner accessible to all staff members and a hard copy shall be provided to all staff members annually prior to the beginning of the school year and upon initial employment in the school district during the school year.



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29 CFR §825 et seq.  
29 CFR §785  
N.J.S.A. 10:5-1;  
N.J.S.A. 34:11B et seq.  
N.J.A.C. 13:14-1 et seq.

Adopted:



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## 2415 EVERY STUDENT SUCCEEDS ACT

The Every Student Succeeds Act (ESSA) is a reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965 that provides Federal funds to help all New Jersey's school children achieve. The purpose of the ESSA is to ensure all students have equitable access to high-quality educational resources and opportunities and to close educational achievement gaps. The Board of Education elects to augment the instructional program of students by projects supported by Federal funds allocated under the ESSA and the district will comply with the requirements of all the programs authorized by the ESSA

The district may be eligible for several grant programs funded through the ESSA, including, but not limited to, Title I through Title VII. Many of the Titles of the ESSA have several parts and subparts that provide a funding source for specific purposes.

### Application Procedure

The district will submit an annual ESSA Consolidated Formula Subgrant Application to the New Jersey Department of Education (NJDOE). The school district's application shall include all information required by the NJDOE and the ESSA for the district to be considered for funding under the ESSA.

### Covered Programs

Formula grants under the ESSA are non-competitive grants that school districts are eligible for based on the make-up of their student bodies. These formula grants for each Title are committed to different purposes and may be used to support different activities and programs.

### Title I

The largest Federal program supporting elementary and secondary education is Title I. The ESSA strengthens Title I requirements for the State's assessments, accountability system, and support for school improvement. The law also requires minimum qualifications for teachers and paraprofessionals in Title I programs.



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The school district must use the best available measure for identifying children from low-income families to: identify eligible school attendance areas, determine the ranking of each area, and determine allocations as identified in the Title I guidelines and regulations.

The school district will offer Title I services to eligible children enrolled in private elementary and secondary schools. The services and benefits will be equitable in comparison to services and benefits for participating public school children.

The school district will provide the New Jersey Department of Education assurances it will provide the maximum coordination between the Title I program, the regular school program, and services provided by other programs for specialized populations. The Title I program will consider the special needs of homeless children, migrant children, children with disabilities and limited English Language Learner (ELL) children. Title I funds will be reserved so that migrant children who are otherwise eligible to receive Title I services, even if they arrive during the school year, are served.

## Type of Title I Program

The school district will offer a Target Assistance Title I program.

### Target Assistance Program

Schools that are not eligible for (or do not choose to operate) school-wide Title I programs must use Title I funds to provide targeted services to low-achieving students. A Target Assistance program must be established in accordance with the Title I guidelines and regulations and the New Jersey Department of Education.

### New Jersey Department of Education Accountability System

The district will comply with the accountability system established by the New Jersey Department of Education and outlined in the New Jersey State Plan and approved by the United States Department of Education.



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## Fiscal Responsibility

The district will comply with the requirements as outlined in Policy 2415.02 Title I – Fiscal Responsibilities in accordance with the NJDOE and the ESSA.

## Staff

The district will comply with the staff certification requirements of the ESSA and the NJDOE. In addition, the district will ensure all paraprofessionals meet the requirements as established by the ESSA and as outlined in Policy 4125 – Employment of Support Staff Members.

## Parental Involvement

The district will comply with the requirements as outlined in Policy 2415.04 – Parental Involvement in accordance with the NJDOE and the ESSA.

## Student Surveys, Analysis, and/or Evaluations

The Protection of Pupil Rights Amendment (PPRA) applies to school districts that receive Federal funding from the United States Department of Education. The district will comply with the requirements as outlined in Policy 2415.05 - Student Surveys, Analysis, and/or Evaluations in accordance with the PPRA.

## Unsafe School Choice Option

In the event there is a school in the district designated as Persistently Dangerous in accordance with the Victims of Violent Criminal Offenses as outlined in the ESSA, the district will comply with the requirements of Policy 2415.06 – Unsafe School Choice Option in accordance with the NJDOE and the ESSA.

## Property

Property acquired through Title I funds for use in public or private schools will be acquired in accordance with the Public School Contracts Law, will be held in title by the Board of Education, and will not be used for other purposes so long as it is required in the Title I program. Property no longer required for Title I purposes will be used for other, similarly funded projects or disposed of in accordance with State and Federal guidelines.



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## Capital Expenses

The Superintendent will assure the district abides by New Jersey's Public Contracts Law; consults appropriate private school officials prior to making any decisions regarding capital expenses; ensure funds that are received to cover capital expenses provide equitable Title I services to private school students; ensure accounts for any capital funding is separately maintained; and assure lease purchase agreements are consistent with applicable statute and administrative code.

## Post-Award Requirements

The school district will maintain all project records for five years following the completion of the activity for which the funds were used. The school district will prepare and submit all reports as required by the State Department of Education in a timely manner.

## Supplement, Not Supplant

Grant funds provided under Federal programs, including the ESEA of 1965 as amended by the ESSA, shall supplement, not supplant the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students; participating in programs assisted under the ESEA of 1965 as amended by the ESSA.

## Evaluation

The Superintendent or designee will evaluate the ESSA programs as required by the United States and the New Jersey Departments of Education.

Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as amended by the Every Student Succeeds Act.

Adopted:



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## 2415.02 TITLE I – FISCAL RESPONSIBILITIES

The Lopatcong Township Board of Education will comply with the requirements of the Elementary and Secondary Education Act (ESEA) of 1965 (20 U.S.C. 2701 et seq.) as amended by the Every Student Succeeds Act (ESSA)

### Maintenance of Effort

To be in compliance with the requirements of the ESEA as amended by the ESSA, the Lopatcong Township Board of Education will maintain either a combined fiscal effort per student, or aggregate expenditures, of State and local funds with respect to the provision of the free public education by the Local Education Agency (LEA) for the preceding fiscal year that is not less than ninety percent of the combined fiscal effort per student, or the aggregate expenditures, for the second preceding fiscal year.

### Comparability with Multiple Schools

To be in compliance with the requirements of the ESEA as amended by the ESSA, the Lopatcong Township Board of Education directs the Superintendent to assign teachers, administrators, and auxiliary personnel to the schools in such a way that the equivalence of personnel is ensured among schools. The school district will ensure that State and local funds are used to provide comparable services for Title I and non-Title I schools.

### Comparability of Materials and Supplies

To be in compliance with the requirements of the ESEA as amended by the ESSA, the Lopatcong Township Board of Education directs the Superintendent to distribute curriculum materials and instructional supplies to the schools in such a way that the equivalence of such material is ensured among schools.





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## Supplement, Not Supplant

Grant funds provided under Federal programs, including the ESEA as amended by the ESSA, shall supplement, not supplant the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in programs assisted under the ESEA as amended by the ESSA.

Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as amended by the Every Student Succeeds Act.

Adopted:



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## 2415.20 EVERY STUDENT SUCCEEDS ACT COMPLAINTS

The Every Student Succeeds Act (ESSA) reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). A Board of Education shall adopt a policy and written procedures for resolving a written complaint presented by an individual or organization that alleges violations in the administration of the ESSA programs as identified by the New Jersey Department of Education (NJDOE).

Policy and Regulation 2415.20 set forth the requirements for resolving complaints presented by any individual or organization that:

1. A school, school district, other agency authorized by the school district, or by the NJDOE violated the administration of education programs authorized by the ESEA as amended by the ESSA; and/or
2. The NJDOE violated the administration of education programs required by the ESEA as amended by the ESSA.

Complaints regarding nonpublic school officials alleging school district noncompliance must pertain to at least one of the following three specific reasons:

1. The school district did not engage in consultation that was meaningful and timely;
2. The school district did not give due consideration to the views of the nonpublic school officials; or
3. The school district did not make a decision that treats the nonpublic school or its students equitable and in accordance with ESEA Section 1117 or Section 8501.

A complaint shall be written and must identify, at a minimum, the alleged ESEA violation; a description of previous steps taken to resolve the matter; the facts supporting the alleged violation as understood by the complainant at the time of submission; and any supporting documentation.



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A complaint alleging a school in the district, school district, or other agency authorized by the school district, or the NJDOE violated the administration of a program must be submitted to the Superintendent. The Superintendent shall be responsible to coordinate the investigation of the complaint. The Superintendent shall submit a written report regarding the outcome of the investigation to the complainant.

If the complainant is not satisfied with the outcome of the investigation by the school district, the complainant must submit a written complaint to the Executive County Superintendent for the county where the school district is located. This process does not apply to alleged violations concerning participation of nonpublic school children.

The Executive County Superintendent will coordinate the investigation of a complaint. When the investigation is complete, the Executive County Superintendent will notify the complainant in writing regarding the outcome of the investigation. If it is determined a violation has occurred, the Executive County Superintendent will identify and impose the appropriate consequences or corrective action in accordance with statute and/or regulation to resolve the complaint. If the complainant is not satisfied with the determination that is made by the Executive County Superintendent, the complainant may submit a written request for review of that determination to the Assistant Commissioner.

A complaint alleging the NJDOE violated the administration of a program must be submitted to the designated New Jersey Department of Education Assistant Commissioner. The appropriate NJDOE Office assigned by the Assistant Commissioner will coordinate the investigation of a complaint. When the investigation is complete, the Assistant Commissioner will notify the complainant in writing regarding the outcome of the investigation. If it is determined a violation has occurred, the Assistant Commissioner will identify and impose the appropriate consequences or corrective actions as required by statute and/or regulation to resolve the complaint.

If a complainant does not agree with the NJDOE's decision, the complainant may appeal to the Secretary of the United States Department of Education.



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To initiate a complaint regarding participation of nonpublic school children, a complainant must submit a written complaint to the NJDOE Nonpublic Ombudsman in accordance with NJDOE procedures.

New Jersey Department of Education Elementary and Secondary Education Act (ESEA) Complaint Policy and Procedure

Adopted:



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## 5330.01 ADMINISTRATION OF MEDICAL CANNABIS

The Board of Education, in accordance with the requirements of N.J.S.A. 18A:40-12.22, must adopt a Policy authorizing parents and designated caregiver(s) to administer medical cannabis to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event. The parent of a qualifying student patient requesting the administration of medical cannabis to the student while on school grounds, aboard a school bus, or attending a school-sponsored event must comply with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A. 24:6I-1 et seq. and Policy and Regulation 5330.01.

A student enrolled in the school district must be authorized to engage in the medical use of cannabis pursuant to N.J.S.A. 24:6I-1 et seq. and that the parent or designated caregiver be authorized to assist the student with the medical use of cannabis pursuant to N.J.S.A. 24:6I-1 et seq. The student and the designated primary caregiver(s) must complete registration with the Cannabis Regulatory Commission in accordance with the requirements of N.J.S.A. 24:6I-4.

The parent of the student authorized to engage in the medical use of cannabis must submit a written request with supporting documentation to the Principal requesting approval to have a designated caregiver(s) assist in the administration of medical cannabis to the qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event. The Principal, in consultation with the school nurse, the school physician, and the Superintendent of Schools, will review each request and upon approval will inform the parent in writing of the approval with details for the administration of medical cannabis to the qualifying student patient. The medical use of cannabis by a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event will only be authorized after the written approval from the Principal is provided to the parent.

Medical cannabis may only be administered to the qualifying student patient while the student is on school grounds, aboard a school bus, or attending a school-sponsored event by the designated caregiver(s) in accordance with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A. 24:6I-1 et seq. The prescribed medical cannabis must be in the possession of the designated caregiver(s) at all times, except during the administration process. The designated caregiver(s) shall comply with the requirements of the Principal's written approval for the



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administration of medical cannabis to the qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event.

All health records related to the administration of medical cannabis to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event shall be maintained in accordance with the requirements of N.J.A.C. 6A:16-2.4 and N.J.A.C. 6A:32-7.4.

No person shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of the medical use of cannabis as authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22. No custodial parent or person who has legal custody of a qualifying student patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for assisting the minor in the medical use of cannabis as authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22.

N.J.S.A. 18A:40-12.22

N.J.S.A. 24:6I-1 et seq.

N.J.A.C. 6A:16-2.4; 6A:32-7.4

Adopted:



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## R 2415.20 EVERY STUDENT SUCCEEDS ACT COMPLAINTS

The Every Student Succeeds Act (ESSA) requires the Board of Education to adopt a policy and written procedures that offer parent(s), public agencies, other individuals, or organizations a method for receipt and resolution of complaints alleging violations in the administration of the ESSA programs.

- A. Complaint Procedure Alleging a Violation by a School, School District, or Other Agency Authorized by the School District or the New Jersey Department of Education (NJDOE)
1. A complaint is an allegation submitted in writing (mail or email) by an individual or organization that a school, school district, **or** other agency authorized by the school district; or the NJDOE has violated the law in the administration of education programs required by the ESSA.
  2. A complaint must identify at a minimum the following:
    - a. The alleged ESSA violation;
    - b. A description of previous steps taken to resolve the matter;
    - c. The facts supporting the alleged violation as understood by the complainant at the time of submission; and
    - d. Any supporting documentation (e.g., letters, emails, logs, agenda, meeting minutes).
  3. A complaint must be submitted to the Executive County Superintendent for the county where the school, school district, or other authorized agency is located



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4. When a written complaint is received by the Executive County Superintendent, the Executive County Superintendent will issue a Letter of Acknowledgement to the complainant within ten calendar days of receipt of the complaint. This letter will contain the following information:
  - a. The date the complaint was received;
  - b. A brief statement of the manner in which the Executive County Superintendent will investigate the complaint;
  - c. If necessary, a request for additional information regarding the complaint;
  - d. A resolution date within forty-five calendar days from the date the written complaint was received by the Executive County Superintendent; and
  - e. The name and telephone number of a contact person for status updates.
5. The Executive County Superintendent will coordinate the investigation of a complaint.
6. When the investigation is complete, the Executive County Superintendent will notify the complainant in writing regarding the outcome of the investigation.
  - a. If the Executive County Superintendent determines a violation has occurred, the Executive County Superintendent will identify and impose the appropriate consequences or corrective actions as required in accordance with statute and/or regulation to resolve the complaint.
  - b. If the complainant is not satisfied with the determination that is made by the Executive County Superintendent the





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complainant may submit a written request for review of that determination to the Assistant Commissioner, Division of Learning Supports and Specialized Services via email at [essa@doe.nj.gov](mailto:essa@doe.nj.gov) with subject line “ESEA Complaint Decision Review” or via hard copy at the following address:

New Jersey Department of Education  
Assistant Commissioner  
Division of Learning Supports and Specialized Services  
P.O. Box 500  
Trenton, New Jersey 08625-0500

- B. Complaint Procedure Alleging a Violation by the New Jersey Department of Education (NJDOE)
1. A complaint is a written allegation the NJDOE has violated the law in the administration of education programs required by the ESSA.
  2. A complaint must identify at a minimum the following:
    - a. The alleged ESSA violation;
    - b. A description of previous steps taken to resolve the matter;
    - c. The facts supporting the alleged violation as understood by the complainant at the time of submission; and
    - d. Any supporting documentation (e.g., letters, emails, logs, agenda, meeting minutes).



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3. To initiate a complaint alleging the NJDOE has violated the administration of an ESEA program, a complainant must submit a written complaint to the New Jersey Department of Education – Assistant Commissioner, Division of Learning Supports and Specialized Services via email at [essa@doe.nj.gov](mailto:essa@doe.nj.gov) with subject line “ESEA Complaint” or via hard copy sent to the following address:

New Jersey Department of Education  
Assistant Commissioner  
Division of Learning Supports and Specialized Services  
P.O. Box 500  
Trenton, New Jersey 08625-0500

4. When a written complaint is received by the NJDOE, an Assistant Commissioner will assign the investigation of this complaint to the appropriate office. The NJDOE will issue a Letter of Acknowledgement to the complainant within ten calendar days of receipt of the complaint. This letter shall contain the following information:
  - a. The date the complaint was received;
  - b. A brief statement of the manner in which the NJDOE will investigate the complaint;
  - c. If necessary, request for additional information regarding the complaint;
  - d. A resolution date within forty-five calendar days from the date the complaint was received; and
  - e. The name and telephone number of a contact person for status updates.
5. The NJDOE Office assigned by the Assistant Commissioner to investigate a complaint concerning an alleged violation by the NJDOE will coordinate the investigation of the complaint. When



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the investigation is complete, the Assistant Commissioner will notify the complainant in writing regarding the outcome of the investigation.

- a. If the NJDOE Office assigned by the Assistant Commissioner of Education determines a violation by the NJDOE has occurred after conducting an investigation, the Assistant Commissioner will identify and impose appropriate consequences or corrective action in accordance with the statute and/or regulation to resolve the complaint.
- b. If the complainant is not satisfied with the NJDOE's decision, the complainant may request a review of the NJDOE's decision to the Secretary of the United States Department of Education (USDOE). The complainant may send the request, reasons supporting the request, and a copy of NJDOE's resolution to the following address:

Secretary, United States Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-4611

New Jersey Department of Education – Every Student Succeeds Act (ESSA) in  
New Jersey ESEA Complaint Policy and Procedures

Adopted:



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Administration of Medical Cannabis

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## R 5330.01 ADMINISTRATION OF MEDICAL CANNABIS

A custodial parent or person having legal custody of a student requesting the administration of medical cannabis to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event must comply with the procedures and requirements of N.J.S.A. 18A:40-12.22 and N.J.S.A. 24:6I-1 et seq. and this Regulation.

### A. Definitions

For the purposes of Policy and Regulation 5330.01:

1. “Cannabis” has the meaning given to marijuana in Section 2 of the “New Jersey Controlled Dangerous Substances Act,” N.J.S.A. 24:21-2.
2. “Commission” means the Cannabis Regulatory Commission established pursuant to N.J.S.A. 24:6I-24.
3. “Designated caregiver(s)” means a resident of New Jersey who:
  - a. Is at least eighteen years old;
  - b. Has agreed to assist with a registered qualifying student patient’s medical use of cannabis, is not currently serving as a designated caregiver(s) for more than one other qualifying patient, and is not the qualifying student patient’s health care practitioner;
  - c. Is subject to the provisions of N.J.S.A. 24:6I-4.c.(2), has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date [Oct. 1, 2010] of N.J.S.A. 24:6I-1 et seq. and was for a violation of Federal law related to possession or sale of cannabis that is authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22 et seq.;



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- d. Has registered with the Commission pursuant to N.J.S.A. 24:6I-4 and, except in the case of a designated caregiver(s) who is an immediate family member of the qualified student patient, has satisfied the criminal history background check requirement of N.J.S.A. 24:6I-4; and
    - e. Has been designated as designated caregiver(s) by the qualifying student patient when registering or renewing a registration with the Commission or in other written notification to the Commission.
4. “Health Care Practitioner” means a physician, advanced practice nurse, or physician assistant licensed or certified pursuant to N.J.S.A. 45 who:
  - a. Possesses active registrations to prescribe controlled dangerous substances issued by the United States Drug Enforcement Administration and the Division of Consumer Affairs in the Department of Law and Public Safety;
  - b. Is the health care practitioner responsible for the ongoing treatment of a qualifying student patient’s qualifying medical condition, the symptoms of that condition, or the symptoms associated with the treatment of that condition, provided; however, that the ongoing treatment shall not be limited to the provision of authorization for a patient to use medical cannabis or consultations solely for that purpose; and
  - c. If the qualifying student patient is a minor, a pediatric specialist.
5. “Medical use of cannabis” means the acquisition, possession, transport, or use of cannabis or paraphernalia by a registered qualifying student patient as authorized by N.J.S.A. 24:6I-1 et seq. and N.J.S.A. 18A:40-12.22 et seq.
6. “Parent” means the custodial parent or person who has legal custody of a qualifying student patient who may also be the designated caregiver(s) registered with the Commission by the



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New Jersey Department of Health to administer medical cannabis to a student in accordance with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A 24:6I-4.

7. “Qualifying student patient” for the purpose of Policy and Regulation 5330.01 means a resident of the State who is a student enrolled and attending school in this school district who has been authorized for the medical use of cannabis by a health care practitioner in accordance with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A 24:6I-41 et seq.
  8. “Registration with the Commission” means a person has met the qualification requirements for, and has been registered by the Commission as, a registered qualifying patient, designated caregiver(s), or institutional caregiver(s). The Commission shall establish appropriate means for health care practitioners, health care facilities, medical cannabis dispensaries, law enforcement, schools, facilities providing behavioral health services or services for persons with developmental disabilities, and other appropriate entities to verify an individual’s status as a registrant with the Commission.
- B. Registration – Qualifying Student Patient and Designated Caregiver(s)
1. A qualifying student patient must be authorized to engage in the medical use of cannabis and the designated caregiver(s) must be authorized to assist the qualifying student patient with the medical use of cannabis pursuant to the provisions of N.J.S.A. 24:6I-1 et seq.
  2. A qualifying student patient and their designated caregiver(s) must complete the registration process in accordance with the provisions of N.J.S.A. 24:6I-4 and any other requirements of the Commission
  3. The qualifying student patient’s parent shall be responsible to immediately inform the Principal of any change in the status of the student’s registration with the Commission that would deem the registration with the Commission null and void due to any reason outlined in N.J.S.A. 24:6I-1 et seq.4



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4. The qualifying student patient's designated caregiver(s) shall be responsible to immediately inform the Principal of any change in the status of any designated caregiver(s)'s current registration with the Commission that would deem the registration with the Commission null and void due to any reason outlined in N.J.S.A. 24:6I-1 et seq.<sup>4</sup>
- C. Submission for Authorization for Administration of Medical Cannabis
1. A parent of a qualifying student patient requesting the administration of medical cannabis to the student while on school grounds, aboard a school bus, or attending a school-sponsored event must submit a written request to the Principal with proof of current registration with the Commission for the qualifying student patient and the designated caregiver(s) and a copy of the health care provider's order or prescription indicating dosage information and the method of administration for the medical cannabis to the qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event.  
  
The Principal may request the parent provide additional documentation from the health care provider that the medical cannabis must be administered during the time of the day when the student is on school grounds, aboard a school bus, or attending a school-sponsored event and the medical cannabis cannot be administered and/or will not be effective during alternate times when the student is not on school grounds, aboard a school bus, or attending a school-sponsored event.
    - a. The parent's written request and all supporting documentation must be submitted to the Principal at least five school days before the first day of the requested administration.



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2. The Principal shall review the proof of current registration with the Commission and supporting documentation submitted by the parent with the school physician, the school nurse, and the Superintendent of Schools.
3. Upon review and approval of the documentation submitted by the parent, the Principal will inform the parent or designated caregiver(s), if the parent is not the designated caregiver(s), in writing with the following information:
  - a. The location (school, office, etc.) where the designated caregiver(s) shall report to administer the medical cannabis;
  - b. The school staff member(s) who the designated caregiver(s) must see to coordinate the administration of medical cannabis;
  - c. The time the designated caregiver(s) shall report to administer the medical cannabis;
  - d. The specific location where the medical cannabis shall be administered to the student; and
  - e. A copy of Policy and Regulation 5330.01 – Administration of Medical Cannabis.
4. In the event the Principal, after consultation with the school nurse, school physician, and Superintendent, has a question or concern regarding the current registration with the Commission or supporting documentation submitted by the parent, the Principal or school physician will contact the parent with the question or concern.
5. The administration of medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event, pursuant to N.J.S.A. 18A:40-12.22, will only be authorized after the approval required by Policy and Regulation 5330.01.





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## D. Administration of Medical Cannabis

1. Medical cannabis shall only be administered by the designated caregiver(s) and at the approved location, times, and method as indicated in the parent's request that was approved in writing by the Principal.
2. In accordance with the provisions of N.J.S.A. 18A:40-12.22.b.(5), medical cannabis cannot be administered to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event by smoking or other form of inhalation.
3. Prescribed medical cannabis must always be in the possession of the designated caregiver(s) and may not be in the possession of the qualifying student patient at any time on school grounds, aboard a school bus, or at a school-sponsored event.
4. The Principal, after consultation with the school nurse, school physician, and the Superintendent, will determine a specific location for the administration of the medical cannabis to the qualifying student patient.
  - a. The Principal will designate a private area, if possible, for the designated caregiver(s) to administer the medical cannabis to the qualifying student patient. The amount of privacy provided for the administration will depend on the approved method of administration and the designated location. The location may be a nurse's office, a private office, a private restroom facility, or any other location appropriate for the approved method of administration.
5. The designated caregiver(s) shall report to the approved location prior to the scheduled time for the administration of medical cannabis to the qualifying student patient. The designated caregiver(s) must show proof of current registration with the Commission and a second form of identification which shall be a photograph identification.



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6. The Principal or supervising school staff member of a school-sponsored event may designate a school staff member to escort the designated caregiver(s) to the qualifying student patient at the designated time to the designated location for the administration.
7. The Principal may designate a school staff member to observe the administration of the medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event.
8. The designated caregiver(s) shall assist in the administration of medical cannabis to the qualifying student patient in accordance with the method and dosage prescribed by the health care practitioner and included in the parent's request to the Principal.
9. The qualifying student patient shall return to his/her class or event as soon as possible after the administration.
10. The designated caregiver(s) will be escorted outside the school building, away from the school bus, or away from the school-sponsored event, if applicable, by a school staff member after the administration.
  - a. The qualifying student patient and/or designated caregiver(s) may be asked to remain at the location of the administration by the school staff member in the event the student needs some additional time after the administration and before returning to their class or event.
11. The designated caregiver(s) shall be responsible for the security of the medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event before, during, and after the administration. At no time shall the qualifying student patient have the medical cannabis in their possession except during the administration process by the designated caregiver(s).

Adopted:

