Testimony on the Proposed Amendments
to
Programs to Support Student Development Regulation, N.J.A.C. 6A:16
Before the State Board of Education
March 6, 2013

Thank you for the opportunity to share the thoughts of the NJ Principals and Supervisors Association and its statewide membership on recently proposed regulatory changes to N.J.A.C. 6A:16, Programs to Support Student Development.

NJPSA appreciates the work the Department has undertaken to clarify existing regulation and streamline the code in light of recommendations from the Governor’s New Jersey Educator Effectiveness Taskforce, other stakeholders and experience.

We particularly pleased to see revisions to the current code related to attendance that allow districts to address the unique circumstances associated with a child’s absence and clarifies the pathway by which truancy should be reported. See N.J.A.C. 6A:16-7.6. We also hailed many of the changes associated with forms flexibility. In addition, clarifying the ownership of law enforcement records within schools and specifying that school policies must include provisions for reporting to, and cooperating with, law enforcement were deeply appreciated. See N.J.A.C. 6A: 16-6.6; N.J.A.C. 6A:16-4.1(c)10. Further, we were pleased to see the Department’s decision to continue to involve principals in a determination to pursue a long-term suspension. See N.J.A.C. 6A:16-7.3(c)iv. Finally, the inclusion of language within N.J.A.C. 6A:16-4.2(b) which allows a principal to appropriate personnel for reporting purposes without the requirement that a principal by absent is welcomed. We offer several recommendations, however, to further improve on these proposed amendments.

Health Services Personnel
The proposal seeks to eliminate the requirement that school physicians consult with district board of education, school district administrators and staff as needed. See N.J.A.C. 6A:16-2.3(a)iii. Realistically, there are many instances where a school physician should be consulting with school staff, such as around infectious disease issues. While cognizant that such a requirement can be articulated within a contract, it makes sense to center all requirements in a single location. As such we would urge the Department to reconsider the elimination of N.J.A.C. 6A:16-2.3(a)iii.

Empowering School Leaders to Decide School Security Training
Current code, N.J.A.C. 6A:16-5.1(d)1, requires districts train new employees within sixty (60) days of employment “as appropriate.” The code proposal would modify this language to require all new employees to receive training. NJPSA would urge the Department to reconsider the removal of the “as appropriate” language in order to afford districts flexibility in the extent and breadth of training. Where an employee will have little or no direct contact with children or the school instructional
environment, districts should retain some flexibility as to the content and extent of security training provided.

**School Violence Awareness Week**
The code proposal would eliminate the requirement that private schools for the disabled and public colleges operating programs for the disabled observe “School Violence Awareness Week” at N.J.A.C. 6A:16-5.2. While appreciative of the need for flexibility, where such schools are educating public schools students, NJPSA believes that ensuring that students and staff have an opportunity to focus on conflict resolution and identifying warning signs for school violence is important for the safety and security of students. As such, we would urge the Department to revisit this provision with regard to such schools.

**Student Conduct**
While appreciative of attempts to ensure that school staff receive training on the code of student conduct in N.J.A.C. 6A:16-7.1(a)4, NJPSA is concerned that the requirement may be over broad in its application. As such, we seek some qualifying language that would allow district personnel to determine which personnel are appropriate to train on the code of student conduct. Moreover, we would urge the Department to consider modifying the annual requirement to a periodic measure.

**Harassment, Intimidation & Bullying (HIB)**

**Conduct Away from School Grounds**
The Department has harmonized much of the code proposal between school requirements associated with HIB and other reporting requirements associated with violence. See e.g N.J.A.C. 6A:16-5.3. As such, we would urge consistency with the boundaries under which schools must act in reference to conduct away from school grounds. The current code proposal would differentiate those boundaries differently depending on whether the activity relates to HIB or other code of conduct violations in N.J.A.C. 6A:16-7.5.

**Empowering the Principal**
Specifically, the ABTF recommended that upon a report of a purported incident of HIB by a student, parent, school employee, volunteer or contracted service provider to the principal, the principal or the principal’s designee have discretion to determine, based on the totality of facts available, whether the incident meets the minimum standard of harassment, intimidation, and bullying (HIB) as set forth in the Anti-Bullying Bill of Rights, N.J.S.A. 18A:37-14. This will allow schools to more appropriately address instances of HIB versus normal student conflict and focus resources toward those instances that truly constitute HIB.

Under the Taskforce recommendation, in instances when a principal determines, based on the initial fact finding, that a reported situation does not meet the standard of HIB, the procedures
outlined under P.L.2010, c.122 would not apply since the incident does not constitute HIB. See Interim Report at 24. Rather, the applicable procedures set forth in the district code of student conduct would apply. In essence, the principal would serve as the “reasonable person,” making a threshold decision on whether an action rises to the level of HIB. Id at 28. A principal would be responsible to preserve the records documenting the information that led to the decision not to initiate an HIB investigation, however. Id.

The Need for Immediate Discipline
The ABTF also urged administrators to mete out disciplinary consequences and/or implement remedial actions as expeditiously as possible, not await action by the chief school administrator or Board of Education (BOE) review. Id at 29. Similarly, the ABTF urged that a forty-five day time frame be created within which a parent or guardian could request a hearing before the BOE. Id. Boards would be required to address the issue in closed session at the next regularly scheduled BOE meeting.

Defining the Role of the School Safety Team
Finally, the group urged that future trainings for the School Safety Team (SST) emphasize the role of the SST in improving the overall school climate. Id. Such training should guide these teams in the use of school climate and other data to develop and implement comprehensive school-wide approaches to improving all facets of the school climate. The body urged that the SST’s plan focus on dealing with bullying and other student conduct infractions and social conflict and the provision of on-going instruction for students as part of a systemic plan to improve the school environment. In this way, schools could set up a cycle of continuous climate improvement by reflecting on subsequent climate and other data and revising the programs, approaches and initiatives to meet current needs.

While the code proposal does not conflict with the recommendations of the ABTF, it does not support the recommendations either. As such, NJPSA would urge the Department to consider affirmatively incorporating the recommendations of the ABTF.

Elimination of Alternative Education Program code
While NJPSA appreciates the Department’s attempts to provide districts flexibility around the provision of services, the complete elimination of Sub-chapter 9 in its entirety and the redaction of the definition of such programs within the definitional section may be problematic. See N.J.A.C. 6A:8-3.1. Regulation provides a basis for district requirements around the provision of these services. Moreover, the requirements are infused in other sections within this and other code titles. See e.g. N.J.A.C. 6A:16-5.6(e); Department of Education, N.J.A.C. 6A:8-Standards and Assessment, 24 (February 6, 2013) available at http://www.state.nj.us/education/code/proposed/title6a/chap8.pdf (proposed changes to the code at N.J.A.C. 6A:8-3.1 utilizes the term, “alternative education program” but does not define what this means). As such, NJPSA would urge that the Department consider incorporating language at a minimum defining that alternative education programs should meet the same appropriate educational programs and services.
Consistency in Days Treatment

Finally, as indicated in our testimony on several other topics, education regulations historically vacillate between the use of calendar, business and school days. See e.g. *N.J.A.C. 6A:16-7.3(a)10iii* (30 calendar days); *N.J.A.C. 6A:16-7.3(a)11* (5 school days). We would urge the Department, as part of its attempts to streamline regulation to consider creating consistency across the code – choosing from calendar, business or school days.

Thank you for the opportunity to present the recommendations of the New Jersey Principals and Supervisors Association. We look forward to working with this Board and the Department on this important code revision.

3/6/2013