

**NEW JERSEY
POLICY ALERT**
Policy Alert and Support System

No. 220
June 2020

P 1649	Federal Families First Coronavirus (COVID-19) Response Act (FFCRA) (M) (New)
P 2270	Religion in Schools (Revised)
P 2431.3	Heat Participation Policy for Student-Athlete Safety (M) (Revised)
P 2622	Student Assessment (M) (Revised)
P & R 5111	Eligibility of Resident/Nonresident Students (M) (Revised)
P & R 5200	Attendance (M) (Revised)
P & R 5320	Immunization (Revised)
P & R 5330.04	Administering an Opioid Antidote (M) (Revised)
P 5610	Suspension (M) (Revised)
R 5610	Suspension Procedures (M) (Revised)
P 5620	Expulsion (M) (Revised)
P & R 8320	Personnel Records (M) (Revised)

This POLICY ALERT replaces and/or adds Policy and/or Regulation Guides in the following sections: 1000, 2000, 5000, and 8000.

Please note the comments below are organized as follows:

0000 NAME OF POLICY

This paragraph describes a development at the State or Federal level.

This paragraph describes the effect of the development on local Board policy. Local policy is **MANDATED** by law or monitoring standards, (these policies will be designated with a “**M**” in the upper right hand corner), **RECOMMENDED** by sound management practices, or merely **SUGGESTED** as may be appropriate to meet your district needs.

These Policy and Regulation Guides should be used to update the Policy and Regulation Manuals of the school district. If your district manual(s) contain any of the policies or regulations contained in this Policy Alert, they must be updated for your district manual(s) to remain current and in compliance with law. It does not matter whether or not the policy or regulation is **MANDATED**, all policies and regulations in district manuals contained in this Alert should be updated.



**NEW JERSEY
POLICY ALERT**
Policy Alert and Support System

Subscribers to Strauss Esmay's Policy Alert & Support System (PASS) receive new and/or revised policies and regulations in paper copy and electronically either through email or download from Strauss Esmay's website, www.straussesmay.com. For your convenience, the revised policies and regulations have changes indicated by ~~strike throughs~~ to denote required text deletions and **bolded text** to indicate new material. The **Policy Alerts** tab on our website contains two different folders: one titled "Alert in one Word document" with ~~strike throughs~~ and **bolded text**; and the second titled "[Alert in one Word document - NO BOLDS OR STRIKETHROUGHS](#)" with ~~strike throughs~~ and **bolded text** removed for a clean document. Policy and Regulation Guides enclosed in this mailing are double sided as a cost containment and paper conservation measure.

P 1649 – Federal Families First Coronavirus (COVID-19) Response Act (M) (New)

H.R. 6201 - Families First Coronavirus Response Act (FFCRA) was recently approved by the United States Congress and signed by the President of the United States. The FFCRA has two sections that impact private employers with fewer than five hundred employees and all public schools.

A. The Emergency Family and Medical Leave Expansion Act (EFMLEA)

The EFMLEA is Division C of the FFCRA and it amends the Federal Medical and Family Leave Act to permit an employee who is unable to work or telework due to a need to care for their son or daughter under 18 years old if their school or place of care has been closed, or the child care provider of the son or daughter is unavailable due to a public health emergency, to use Federal Medical and Family Leave. A public health emergency is an emergency with respect to COVID-19 as declared by Federal, State, or local authority.

The first ten days of such leave may be, but not required to be, paid leave provided by the employer. Subsequent leave taken by the employee shall be paid by the employer in an amount not less than 2/3 of the employee's rate of pay or the number of hours the employee would have been scheduled to work. In no event shall such paid leave exceed \$200.00 per day or \$10,000.00 in the aggregate.

B. The Emergency Paid Sick Leave Act (EPSLA)

The EPSLA is Division E of the FFCRA and requires the employer to provide paid sick time to the extent the employee is unable to work or telework due to the employee being subject to a government ordered quarantine; advised by a health care provider to self-quarantine; experiencing symptoms of COVID-19 and is seeking a medical diagnosis; caring for an individual who has been ordered to quarantine or has been advised to quarantine; or caring for their son or daughter if the school or child care provider has been closed. The EPSLA provides up to 80 hours of paid time for a full-time employee and prorated time for part-time employees based on a two-week work period.

The provisions of the FFCRA shall apply from April 1, 2020 through December 31, 2020.



**NEW JERSEY
POLICY ALERT**
Policy Alert and Support System

The provisions of the FFCRA as approved raise implementation questions. The United States Department of Labor (USDOL) has developed a comprehensive Families First Coronavirus (COVID-19) Response Act - Questions and Answers which can be found at <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.

Strauss Esmay Associates has developed Policy Guide 1649 which addresses information included in the FFCRA. The provisions of the FFCRA are only applicable to school employees working and receiving pay from the school district, not employees that have been laid-off, furloughed, or are receiving pay and not working. The USDOL Q&A provides important information, much of which is included in this new Policy Guide 1649. Unfortunately, the availability of any Federal funding available to employers for the implementation of this law has not yet been addressed by the Federal government. Policy Guide 1649 is consistent with the sick leave provisions of the New Jersey statute, N.J.S.A. 18A:30-1, that limits an employee's use of sick time because of personal disability due to illness or injury or because he or she has been excluded from school by the school district's medical authorities on account of contagious disease or of being quarantined for such a disease in his or her immediate household.

Strauss Esmay does not anticipate employee requests for Federal Family and Medical Leave or Paid Sick Leave under the FFCRA to become an issue until schools resume normal operations. Policy Guide 1649 provides the requirements of the Federal Family and Medical Family Leave Act and the Emergency Paid Sick Leave Act under the FFCRA. These requirements may be revised or clarified in the USDOL regulations and this Policy Guide will be revised accordingly, if needed. The requirements in this Policy Guide are mandated.

Policy Guide 1649 is **MANDATED**

P 2270 – Religion in Schools (Revised)

The United States Department of Education updated its Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools (Guidance) on January 16, 2020. The January 2020 Guidance updated the February 7, 2003 Guidance and includes two additional sections: Applying the Governing Constitutional Principles in Particular Contexts Related to Religious Expression (Religious Literature, Teaching about Religion, Student Dress Code, and Religious Excusals) and The Equal Access Act (General Provisions, Prayer Services and Worship Exercises, Means of Publicizing Meeting, and Lunch-time and Recess). In addition, the last three paragraphs of Policy Guide 2270 have been removed because these principles are included in the January 16, 2020 Guidance in greater detail. The 2020 Guidance is more comprehensive than the 2003 Guidance, but there are no material revisions in the 2020 Guidance from the 2003 Guidance. Policy Guide 2270 - Religion in Schools has been updated to align with the 2020 Guidance. The Guidance is eleven pages and is incorporated into this Policy Guide by reference. It is recommended school administrators review the 2020 Guidance, which can be downloaded from the United States Department of Education website at: www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html.



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

A school district is not required by law to adopt a Policy regarding religion in schools, but schools are required to follow the provisions in the January 2020 Guidance.

Policy Guide 2270 is **RECOMMENDED**

P 2431.3 – Heat Participation Policy for Student-Athlete Safety (M) (Revised)

P.L. 2019, Chapter 293 was recently passed and codified as N.J.S.A. 18A:11-3.10. The new statute requires school districts to adopt and implement the New Jersey State Interscholastic Athletic Association (NJSIAA) Heat Participation Policy for student-athletes. A new Policy Guide has been developed to replace the existing Policy Guide 2431.3 as the existing Policy Guide made compliance with the NJSIAA policy optional while the new statute and updated Policy Guide mandates compliance with NJSIAA’s Heat Participation Policy. The NJSIAA’s Heat Participation Policy requires it to be utilized in conjunction with the NJSIAA’s Pre-Season Heat Acclimatization Policy. NJSIAA’s Heat Participation Policy and Pre-Season Heat Acclimatization Policy are incorporated into this Policy Guide by reference as they are lengthy documents that will likely be revised on an ongoing basis by the NJSIAA. The Policy Guide requires compliance with NJSIAA’s “current” Heat Participation Policy and Pre-Season Heat Acclimatization Policy so if and when NJSIAA revises these Policies, this Board Policy 2431.3 will not require revisions and re-adoption. NJSIAA’s Heat Participation Policy indicates the provisions of the Policy shall be carried out by the Athletic Trainer, certified designee, or individual appointed by the administrator designated by the Superintendent to supervise athletics, which may be a coach or individual responsible for making decisions concerning the implementation of modifications or cancellations of practices and games. The new statute requires the use of a WetBulb Globe Temperature (WBGT) tool that measures heat stress on humans exposed to high temperatures. Although not required in the new statute, the updated Policy Guide requires each coach be provided a copy of Policy 2431.3 and NJSIAA’s current Heat Participation Policy and Pre-Season Heat Acclimatization Policy by the Principal or designee. This updated Policy Guide is required to be reviewed by the school physician. The statute is mandated for all school districts with student-athletes in grades nine through twelve and provides an option for districts to expand such provisions to student-athletes in other grade levels. Compliance with this new law, Policy Guide 2431.3, and NJSIAA’s Policies will require training and time. The new statute is effective for the 2020-2021 school year. This revised Policy Guide 2431.3 is now mandated for all school districts with student-athletes in grades nine through twelve and should replace a district’s current Policy 2431.3.

Policy Guide 2431.3 is **MANDATED**



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

P 2622 – Student Assessment (M) (Revised)

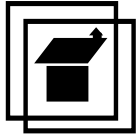
Effective June 4, 2018, there was an administrative code revision impacting Policy Guide 2622. The code revision was a change to N.J.A.C. 6A:8-4.3(c)1.i. and amended the code section from “Continued administration of mathematics and English language arts in grades three, four, and five, and of science in grade four” to “Continued administration of mathematics and English language arts in grades three, four, and five, and of science in grade five.” The revision impacts the school district’s requirement to administer an elementary school level Statewide assessment for science through grade five, when previously it was only required through grade four. There are some other “minor” revisions made to the Policy Guide to provide better clarity for school districts regarding the code requirements. In addition, “PARCC” has been removed from the Policy Guide in referencing the specific “end-of-course” assessments in two locations in the Policy Guide. Policy Guide 2622 is mandated.

Policy Guide 2622 is **MANDATED**

**P 5111 – Eligibility of Resident/Nonresident Students (M) (Revised)
R 5111 – Eligibility of Resident/Nonresident Students (M) (Revised)**

P.L. 2019, Chapter 310, codified at N.J.S.A. 18A:38-1.3, revised the existing statute which now indicates a school district may not condition student enrollment on the fact the New Jersey Motor Vehicle Commission (NJMVC) does not have the name or address of the parent on file. Strauss Esmay has revised Policy and Regulation Guides 5111 to incorporate this new statute. The revision is included in Policy Guide 5111, where N.J.S.A. 18A:38-1.3 was already addressed and in Regulation Guide 5111, Section F.6. School districts should be aware if there is a dispute between the district and the parents in regard to a student’s eligibility for enrollment the district may still request information from the NJMVC to verify eligibility. However, if the NJMVC does not have any information on the parent, the lack of information cannot be used to determine if a student is ineligible for enrollment.

In addition, Strauss Esmay has received requests for guidance regarding admission for students entering the country utilizing a J-1 Visa. The school enrollment eligibility requirements for J-1 Visas are governed by Federal statutes and regulations administered by the U.S. Department of State and/or the U.S. Department of Homeland Security - U.S. Citizenship and Immigration Services. Strauss Esmay researched the Federal regulation, 8 CFR 214.2(j)(1)(i), on this subject and the written guidance published by the U.S. Department of State – Bureau of Consular Affairs. A school district may, but is not required, to permit admittance of a J-1 Visa student in accordance with Federal regulation - 8 CFR 214.3. However, if a school district does accept a J-1 Visa student, the district can not require the J-1 Visa student to pay tuition.



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

A new provision has been added for both the F-1 and J-1 Visa student provision indicating continued attendance in the school district is conditioned upon a satisfactory attendance and disciplinary record. School districts should ensure any registration forms and practices are consistent with the provisions of this Policy and Regulation Guide. Policy Guide 5111 is mandated and due to the extent of information included in Regulation Guide 5111, it is also mandated. The revised Regulation Guide is also required to be adopted by the Board.

Policy Guide 5111 is **MANDATED**
Regulation Guide 5111 is **MANDATED**

P 5200 – Attendance (M) (Revised)

R 5200 – Attendance (M) (Revised)

Policy and Regulation Guides 5200 address the statutory and administrative code requirements of student attendance. These Guides have been revised to provide some clarity on an issue that, on occasion, causes some confusion.

In summary, there are two sets of rules for student attendance:

1. The first set of rules address how student attendance must be recorded in the school register that is used for State and Federal reporting purposes. For the purpose of the school register, a student is recorded as either present or absent, or excused for only a few very limited reasons, which are explained in the school register. Religious holidays, rules issued by the New Jersey Commissioner of Education, and college visits are a few examples of excused absences for school register purposes. Other than those enumerated absences, there is no distinction between excused and unexcused absences in the school register for State and Federal reporting purposes.
2. The second set of rules are outlined in N.J.A.C. 6A:16-7.6 – Attendance. N.J.A.C. 6A:16-7.6 permits a local school district to define excused and unexcused absences for purposes of truancy, student conduct, promotion, retention, and award of course credit. School districts can take any and all action authorized by their policies and procedures when categorizing these absences. School districts excuse many more absences under N.J.A.C. 6A:16-7.6 (See Regulation 5200 – Section C.3.) than the school register permits because N.J.A.C. 6A:16-7.6(a)4 requires “school staff responses” for four cumulative unexcused absences; for between five and nine cumulative unexcused absences; and for cumulative unexcused absences of ten or more. Implementing these “school staff responses” outlined in N.J.A.C. 6A:16-7.6(a)4 would be very consuming of administrative time if “school staff responses” were tied to the requirements for the school register regarding State and Federal reporting purposes.



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

Policy and Regulation Guides 5200 have been revised to provide a more detailed explanation of the distinction between attendance recording in the school register and attendance recording pursuant to N.J.A.C. 6A:16-7.6. Section B. of the Regulation Guide has been revised to include the provisions of N.J.A.C. 6A:32-8.1 – School Register – (b) through (f). These new provisions in the Regulation Guide will avoid the need to revise this Guide every time rules for the school register change. In addition, the Policy Guide has been revised to include the provisions of N.J.S.A. 18A:36-25.6 that require a parent or adult student to notify the school office prior to the student’s absence and if the student is determined to be absent from school without valid excuse, and if the reason for the student’s absence is unknown to the school, the Principal or designee shall immediately attempt to contact the student’s parent to notify the parent of the absence and determine the reason for the absence. Consistent with N.J.A.C. 18A:36-25.6, Regulation Guide 5200 has been revised indicating the parent *shall* be required to notify the school when the student will not be at school. This requirement will limit the need for the Principal or designee to follow-up with parents who have not notified the school of the child’s absence.

Policy Guide 5200 is **MANDATED**
Regulation Guide 5200 is **MANDATED**

P 5320 – Immunization (Revised)
R 5320 – Immunization (Revised)

Policy and Regulation Guides 5320 have been revised to provide additional guidance and to more closely align with the structure of the controlling administrative code sections of N.J.A.C. 8:57-4. The revisions in the Policy Guide are minor while most of the revisions are in the Regulation Guide. Although an immunization Policy and Regulation is not mandated by statute or administrative code, adopting Policy and Regulation Guides 5200 is highly recommended to provide guidance to school staff members and parents of school-aged children.

Policy Guide 5320 is **RECOMMENDED**
Regulation Guide 5320 is **RECOMMENDED**

P 5330.04 – Administering an Opioid Antidote (M) (Revised)
R 5330.04 – Administering an Opioid Antidote (M) (Revised)

N.J.S.A. 18A:40-12.23 through 12.28 requires schools with grades nine through twelve to obtain an opioid antidote under a standing order. The statutes require an opioid antidote to be accessible in the school building during regular school hours and during school-sponsored functions that take place in the school or on school grounds adjacent to the school building at any time. However, the Board may, in its discretion, make an opioid antidote accessible during school-sponsored functions that take place off school grounds and to any grades outside nine through twelve.



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

The new statutes were effective December 1, 2018 and at the time Strauss Esmay developed Policy and Regulation Guides 5330.04 that aligned with the language in the statutes. Subsequently, the NJDOE published *Guidelines for Opioid Antidote Administration within Schools* (Guidance) that included some recommended options and details that are not included in the statutes. Policy and Regulation Guides 5330.04 have been revised to provide the options and additional details as provided in the Guidance. The revised Policy and Regulation Guides provide greater detail regarding the physician's standing orders, the training requirements for those employees designated to administer the opioid antidote, the replacement of the opioid antidote upon expiration, the administration of the antidote, and the limitation of liability attached with administering the antidote. The revised Policy and Regulation Guides should replace a district's existing Policy and Regulation 5330.04.

Policy and Regulation Guides 5330.04 are mandated and both must be adopted by the Board.

Policy Guide 5330.04 is **MANDATED**
Regulation Guide 5330.04 is **MANDATED**

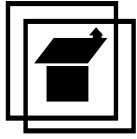
P 5610 – Suspension (M) (Revised)
R 5610 – Suspension Procedures (M) (Revised)

P.L. 2019, Chapter 479 was recently signed into law and codified as N.J.S.A. 18A:37-2c. The new statute requires the Principal to convene a meeting between a student and appropriate school personnel after a student has experienced multiple suspensions or may be subject to a proposed expulsion from public school to identify any of the student's behavior or health difficulties, as soon as practicable. The new statute also allows the Principal to hold this meeting if it is the first time a student is suspended, if the Principal deems such a meeting appropriate. The purpose of the meeting is to ascertain whether the student needs supportive interventions or referrals utilizing school or community resources to address identified behaviors or health difficulties. Policy and Regulation Guides 5610 have been revised to reflect the requirements mandated by this new statute.

When immediate removal of a student is due to a violation of the "Zero Tolerance for Guns Act", an assault upon a school employee or Board member with and without a weapon, the meeting required by the new law shall take place after the student is removed from the school's regular education program.

Policy and Regulation Guides 5610 are mandated and both must be adopted by the Board.

Policy Guide 5610 is **MANDATED**
Regulation Guide 5610 is **MANDATED**



**NEW JERSEY
POLICY ALERT
Policy Alert and Support System**

P 5620 - Expulsion (M) (Revised)

P.L. 2019, Chapter 479 was recently signed into law and codified at N.J.S.A. 18A:37-2c. The new statute requires the Principal to convene a meeting between a student and appropriate school personnel after a student has experienced multiple suspensions or may be subject to a proposed expulsion from public school to identify any of the student's behavior or health difficulties, as soon as practicable. The new statute also allows the Principal to hold this meeting if it is the first time a student is suspended, if the Principal deems such a meeting appropriate. The purpose of the meeting is to ascertain whether the student needs supportive interventions or referrals utilizing school or community resources to address identified behaviors or health difficulties.

When immediate removal of a student is due to a violation of the "Zero Tolerance for Guns Act", an assault upon a school employee or Board member with or without a weapon, the meeting required by the new law shall take place after the student is removed from the school's regular education program.

Policy Guide 5620 has been revised to reflect the requirements mandated by the new law if the student may be subject to expulsion. Policy Guide 5620 is mandated.

Policy Guide 5620 is **MANDATED**

P 8320 – Personnel Records (M) (Revised)

R 8320 – Personnel Records (M) (Revised)

Policy and Regulation Guides 8320 have been revised to provide additional guidance regarding public access to personnel file information. N.J.A.C. 6A:32-4.3 requires a Board of Education to make certain employee records and information available for public access pursuant to N.J.S.A. 47:1A-10, the Open Public Records Act (OPRA), but in accordance with N.J.S.A. 18A:6-120.(d) and 121.(d). A new section G. has been added to the Regulation Guide that outlines the records that are available for public access. Policy and Regulation Guides 8320 are now mandated as the information regarding public access to personnel files is a legal requirement.

Policy and Regulation Guides 5610 are mandated and both must be adopted by the Board.

Policy Guide 8320 is **MANDATED**

Regulation Guide 8320 is **MANDATED**

© Copyright 2020 by Strauss Esmay Associates, LLP, 1886 Hinds Road, Suite 1, Toms River, NJ 08753 (732-255-1500). This publication is designed to provide accurate and reliable information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal services. If legal advice is required, an attorney should be consulted.