

5611 REMOVAL OF PUPILS FOR
FIREARMS OFFENSES

The Board of Education is committed to providing a safe and secure school environment to all pupils attending the public schools. To provide this environment, the Board of Education will implement policies and procedures regarding pupil offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921, pursuant to The Zero Tolerance For Guns Act, N.J.S.A. 18A:37-7 through N.J.S.A. 37-12.

Policy and Regulation 5611 shall apply to a pupil who is convicted or adjudicated delinquent for possession of a firearm on school grounds, convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds, or found knowingly in possession of a firearm on school grounds. A pupil, other than a pupil with a disability, convicted or adjudicated delinquent for these firearm offenses shall be immediately removed from the school's general education program for a period of not less than one calendar year and placed in an alternative education program according to the requirements of N.J.A.C. 6A:16-9.1 et seq. The Superintendent may modify on a case-by-case basis the removal of a general education student in accordance with N.J.A.C. 6A:16-5.5(b)1. A pupil with a disability convicted or adjudicated delinquent for these firearm offenses shall be immediately removed in accordance with the provisions of N.J.A.C. 6A:14 and applicable Federal regulations and shall receive a placement in accordance with N.J.A.C. 6A:14.

The Principal or designee shall remove the pupil in accordance with the requirements outlined in N.J.A.C. 6A:16-5.5(d), which includes notifying the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

If it is found that the removed pupil did not commit these firearm offenses, the pupil shall be immediately returned to the program from which he or she was removed.

The Superintendent shall make the final determination on whether the general education pupil removed in accordance with the requirements of N.J.A.C. 6A:16-5.5 and this Policy is prepared to return to the general education program or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1 et seq., or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10 based on the criteria outlined in N.J.A.C. 6A:16-5.5(i).

If a pupil, other than a pupil with a disability, is removed from the general education program pursuant to N.J.A.C. 6A:16-5.5 and this Policy, and a placement in an alternative education program is not available, the general education pupil shall be provided home or other out-of-school instruction according to N.J.A.C. 6A:16-10.2 until placement is available.

The Superintendent of Schools biannually shall submit to the Commissioner of Education a report on each incident under N.J.A.C. 6A:16-5.5 utilizing the reporting system adopted by the State of New Jersey, pursuant to N.J.A.C. 6A:16-5.3(d)1.

This Policy and Regulation 5611, implementing the requirements of N.J.A.C. 6A:16-5.5, shall be annually disseminated to all school staff, pupils, and parents.

N.J.S.A. 18A:37-1 et seq.
N.J.A.C. 6A:14-2.8 et seq.; 6A:16-5.5; 6A:16-6.1 et seq.;
6A:16-7.1 et seq.; 6A:16-8.1 et seq.;
6A:16-9.1 et seq.; 6A:16-10.2

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A. Definitions

“School buildings and school grounds” means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider and structures that support these buildings. School buildings and school grounds also includes other facilities such as, playgrounds, and recreational places owned by local municipalities, private entities, or other individuals during those times when the school district has exclusive use of a portion of such land in accordance with N.J.A.C. 6A:16-1.3 and 6A:26-1.2.

B. Removal of Pupils for Firearm Offenses

1. Pursuant to the provisions of N.J.A.C. 6A:16-5.5, any pupil, other than a pupil with a disability, committing the following offenses shall be immediately removed from the school’s general education program for a period of not less than one calendar year:
 - a. Convicted or adjudicated delinquent for possession of a firearm on school grounds;
 - b. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
 - c. Found knowingly in possession of a firearm on school grounds.
2. The Superintendent may modify, on a case-by-case basis, the removal of a general education pupil.
 - a. The Superintendent or designee shall develop and maintain a written record of case-by-case modifications of the removal requirement of N.J.A.C. 6A:16-5.5(b)1, which shall be made available to the Commissioner of Education upon request.

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3. Nothing in N.J.A.C. 6A:16-5.5 or this Policy and Regulation shall be construed to prohibit the expulsion of a general education pupil.
 4. The Board shall immediately remove pupils with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations.
- C. Procedures - Removal of Pupils for Firearm Offenses
1. The Principal shall:
 - a. Remove a pupil as set forth in B. above;
 - b. Isolate the pupil and place him or her under the supervision of school staff until the pupil's parent or a law enforcement official takes custody of the pupil;
 - c. Immediately report to the Superintendent the removal of the pupil;
 - d. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
 - e. Notify the pupil's parent of the following information:
 - (1) The removal action;
 - (2) The law enforcement notification;
 - (3) The change of custody, if it occurs; and
 - (4) A general education pupil's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a pupil with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.
 2. A pupil, other than a pupil with a disability, removed from the general education program pursuant N.J.A.C. 6A:16-5.5 shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.1 et seq.
 - a. If placement in an alternative education program is not available, the general education pupil shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

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3. A pupil with a disability removed pursuant to B. above shall receive a placement in accordance with N.J.A.C. 6A:14.
4. A pupil, other than a pupil with a disability, removed pursuant to B. above shall be entitled to a hearing before the Board of Education in accordance with N.J.A.C. 6A:16-7.3 through 7.5.
5. If it is found that the removed pupil did not commit the offenses in B. above, the pupil shall be immediately returned to the program from which he or she was removed.

D. Return to General Education Program

1. The Superintendent shall make the final determination on whether the general education pupil is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1 et seq., or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:
 - a. The nature and severity of the offense;
 - b. The Board's removal decision;
 - c. The results of relevant testing, assessment, or evaluation of the pupil; and
 - d. The recommendation of the Principal or Director of the alternative education program or home or other out-of-school instruction program in which the pupil has been placed.

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