

POLICY SERVICES

ADVISORY

Volume 14, Number 1

February 2017

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Policy Advisory No. 127..... Wellness

Policy Advisory Discussion

Policy Advisory 127- Wellness. In September of 2016, the Public Education Department sent out the newly revised New Mexico Public Education Department School District Wellness Policy Guidance Document. The guidance document purported to provide a step-by-step process to assist in developing and implementing a quality wellness policy, while also meeting the requirement of state statute 6.12.6 NMAC.

After much consideration following analysis of the Public Education Department (PED) Wellness Policy Guidance (Guidance), it became apparent to Policy Services that this Guidance provided more confusion than assistance regarding compliance with the Wellness requirements of 6.12.6 NMAC as revised in December of 2014.

What follows is an overview of the recommendations by Policy Services for preparing or revising the previously submitted sections of the Wellness Policy in accord with the revisions of 6.12.6 NMAC of 12-30-2014. The "Wellness Policy" is really a composite of the policies referenced below. If the district's current Policies are not up to date, examine the policies suggested below. The policies that have been modified are listed with the year in which they were modified. Updates or advisories can be found at www.nmsba.org at the Policy Services under the relevant date given below with the policy reference. If there is no date then the policy is as adopted with the original manual.

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There are some issues with the Guidance document that the district should be aware of when dealing with the PED.

Provision of 7.30.12 NMAC Emergency Medications in Schools compliance, in case of allergic reactions, is listed as a requirement. Districts should note on their evaluations that compliance with this Health Department Regulation is not mandatory but rather is optional per the regulation and 22-33-1 et. Seq. NMSA 1978. See Policy Advisory 114.

The Guidance indicates that the SHAC has more authority in development of policy than is given by 6.12.6.7 B NMAC which states the SHAC has "the responsibility to make recommendations to the local school board in the development or revision, implementation, and evaluation of the wellness policy. (emphasis added)

Districts are only required to follow PED and Health Department directions that are formulated and placed in the New Mexico Administrative Code per 9-7-6 and 9-24-8 of NMSA 1978. Guidance without sanction in NMAC is non regulatory and may be considered optional. District's do have to follow federal laws and regulations upon which many of the PED rules are based, however.

As a final note of caution, many of the items suggested by the PED in the Guidance document are well beyond the requirements for compliance and the addition of these to a district's policies and procedures can raise a number of risks. Policy Services does not recommend the district include optional language, only include required language in policy to avoid the pitfall of failure to implement minor rubric that is not required by law or rule. The added language of the templates and optional language suggestions could possibly change the intent of the district's current policies making it difficult to enforce the policies or changing the intent of the policies.

Compliance Recommendations

To assist our clients, Policy Services has determined that those districts that have maintained their Policy Manuals in accord with the suggestions of Policy Services by means of adopting the advisory suggestions over time, are in substantial compliance with the PED policy requirements. A list of policies, regulations and exhibits that provide the direction for this compliance is found as "List of Applicable Policies for State Wellness Proposed Compliance." The list by policy code is provided using the names as found in the definitions of 6.12.6.7 NMAC and in the PED Guidance document.

In addition to this list of policies, Policy Services has also annotated the PED Wellness Policy Guidance (Guidance), using red type, so that districts may place their Policy Manual references with the statements in the Guidance document for purposes of showing compliance. The "Guidance Document Annotated" is the title under which this is found. The formatting is a bit different because of conversions, but the content is the

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same unless otherwise noted. In addition to providing the annotation in the Guidance, Appendix C (Evaluation Plan Template) has been partially completed with policy references and dates as they were known.

The district should do the following regarding the Appendices to the Guidance;

Appendix A of the PED Guidance should be completed with the names of the members of the District School Health Advisory Council (SHAC).

Appendix C of the PED Guidance (Evaluation Plan Template) is also provided with pertinent lines filled in with dates and policies as they are known. Districts will need to determine the date of the policy adoption or provision of the documents in the Evaluation Plan Template, check the yes or no compliance and add the names of responsible persons when completing this form.

Finally, Policy Services prepared the recommended actions necessary to accomplish the PED requirements of 6.12.6.8 NMAC as listed in the Administrative Code. These are found below using the format and side headings of 6.12.6.8 NMAC along with any references to previous district actions, policies or procedures found in the district updated Policy Manual. Definitions, as used in the NMAC for sections of the wellness documents, can be found in 6.12.6.7 NMAC. As indicated in 6.12.6.8 NMAC, districts may develop the policy in sections. Each section is found below as required.

6.12.6.8 NMAC annotated by Policy Services (See the annotated Guidance document Appendix B for 6.12.6.7 and 6.12.6.8 NMAC text to compare the listing below.)

- A. Local Boards are covered by the regulation of part A of 6.12.6.8 NMAC.
- B. Per part B, the district must "develop and implement a policy that addresses school and employee wellness through a coordinated school health approach." (That policy can be developed in sections per (1) and (2) of part C of 6.12.6.8 NMAC.)
- C. Part C requires submission of the wellness policy to the PED in sections for approval.

Districts are to provide the information required in Section D of 6.12.6.8 in paragraphs (3), (4), (5), (6) and (10) and Section E. These requirements should be updated to meet the changes indicated in the NMAC in 2016 and that are now incorporated in policies that were updated in 2014, 2015, and 2016. See paragraphs that follow with directions to assist in developing compliance documents.

"(3) guidelines to provide physical activity opportunities to students before, during and/or after school;" These are found in Policies JL, JL-RA and JL-RB.

"(4) nutrition guidelines meeting standards established by federal rules at 7 CFR 210.11

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and 7 CFR 210.11a, the Healthy Hunger-Free Kids Act of 2010, the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966;" (See Policy EFE for directions and updated guidelines.)

"(5) guidelines for school sponsored fund raisers during the normal school hours minimally meeting guidelines set forth in Paragraph (1) of Subsection C of 6.12.5.8 NMAC;" (Policy EFE, as revised in 2016, contains those guidelines and the direction to implement.)

"(10) a plan for measuring implementation and evaluation of the wellness policy, including the designation of one or more persons within the school district, or at each school, as appropriate, charged with operational responsibility for ensuring that each school fulfills the district's wellness policy." (Policy JL assigns the evaluation to the principal of each campus and requires the development of procedures. Appendix C of the Guidance could be used at least in part for this purpose.)

"E. Family, school and community involvement. Each local board of education shall establish a district school health advisory council that consists of parent(s), school food authority personnel, school board member(s), school administrator(s), school staff; student(s); and community member(s). The school health advisory council shall have the responsibility to make recommendations to the local school board in the development or revision, implementation, and evaluation of the wellness policy consistent with this rule. The school health advisory council shall meet for this purpose a minimum of two times annually." (Policy JR specifies the membership and functions, including the number of meetings required of the school health advisory council (SHAC). Appendix B of the PED Guidance would be appropriate to provide the actual names etc. Please be aware that although the guidance indicates the SHAC develops the policy, the regulation, 6.12.6.7 specifically indicates that the SHAC only makes recommendations.)

C. Part C requires submission of the wellness policy in parts to the PED with the requirements in C (2) being submitted. Provide the information required in Paragraphs (1), (2), (7), (8), (9) and (10) of Subsection D of 6.12.6.8 NMAC. See paragraphs that follow with directions to assist in developing compliance documents.

"(1) a planned, sequential, K-12 health education curriculum that addresses the physical, mental, emotional, and social dimensions of health and is aligned to the health education content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC;" (The curriculum development should be updated from that prepared in 2006 and put in writing as aligned to the standards so that it can be transmitted to PED when required.)

"(2) a planned, sequential, K-12 physical education curriculum that provides the optimal opportunity for all students to learn and develop skills, knowledge and attitudes necessary

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to personally decide to participate in lifetime healthful physical activity and is aligned to the physical education content standards with benchmarks and performance standards as set forth in 6.30.2.20 NMAC;" (The curriculum development should be updated from that prepared in 2006 and put in writing as aligned to the standards so that it can be transmitted to PED when required.)

"(6) a plan addressing the behavioral health needs of all students in the educational process by focusing on students' social and emotional wellbeing;" (Using the definitions of 6.12.6.7 NMAC listed below are the policies that answer to the requirements in the Guidance related to **Social and Emotional Well-Being of Students**. These should be made available to the PED when required.)

A-0750 ADB/ADC DRUG/TOBACCO FREE SCHOOLS ADVISORY 120 OF 2016

G-0650 GBEA STAFF ETHICS (Statement of Ethics for School Employees)

G-0750 GBEB STAFF CONDUCT ADVISORY 69 OF 2010

G-0761 GBEB-R

I-2500 IHBC PROGRAMS FOR AT-RISK/DISADVANTAGED STUDENTS

(Student Assistance team)

J-6250 JLF REPORTING CHILD ABUSE/CHILD PROTECTION

J-6281 JLF-E

J-300 JICG TOBACCO USE BY STUDENTS/SMOKING ADVISORY 120 OF 2016

J-3050 JICH DRUG AND ALCOHOL USE BY STUDENTS

J-1000 JFABD ADMISSION OF HOMELESS STUDENTS

J-1011 JFABD-R

J-1031 JFABD-EA

J-1032 JFABD-EB

J-3600 JII STUDENT CONCERNS, COMPLAINTS, AND GRIEVANCES ADV. 37 OF 2007

J-3611 JII-R

J-3631 JII-EA

J-3632 JII-EB

J-4600 JK STUDENT DISCIPLINE

J-4611 JK-R

J-4631 JK-EA

J-4950 JL STUDENT WELLNESS POLICY ADVISORY 24 2006

J-4961 JL-RA

J-4962 JL-RB

J-5500 JLD GUIDANCE AND COUNSELING

"(7) school safety plans at each school building focused on supporting healthy and safe learning environments; the school safety plan must be submitted to the public education department for approval on a three-year cycle and must include the following minimum components:

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- (a) introduction;
- (b) school policies and procedures;
- (c) prevention; and
- (d) a school EOP;"

(Found below are all of the policies and procedures that were found in support of the **Health and Safe Environment** as defined in 6.12.6.7 and as required by the Guidance document. They specify development of and inclusion of the EOP particularly in policies and procedures EBC. The district will need to refine the EOP and make sure it provides an introduction along with all of the policies below.

Districts should attempt to maintain the privacy of the EOP since it is exempted from the requirements of the public records act as a health related document. Providing it to the PED, even though required by NMAC may raise safety issues.

Districts may need to add a check-list to the Building and Grounds inspection directed by policy ECB to comply with the Guidance document.)

- A-0750 ADB/ADC DRUG/TOBACCO FREE SCHOOLS ADVISORY 120 OF 2016
- E-050 EA SUPPORT SERVICES GOALS/PRIORITY OBJECTIVES
- E-0250 EBAA REPORTING OF HAZARDS AND WARNING SYSTEMS (PESTICIDES)
- E-0261 EBAA-R
- E-0400 EBB ACCIDENT PREVENTION AND SAFETY PROCEDURES
- E-0500 EBBB ACCIDENT REPORTS
- E-0550 EBC EMERGENCIES ADVISORY 39 OF 2007
- E-0561 EBC-RA
- E-0562 EBC-RB
- E-0563 EBC-RC
- E-0750 EBCD WEATHER RELATED AND EMERGENCY CLOSINGS
- E-0761 EBCD-R
- E-1200 ECB
- I-1250 IHA BASIC INSTRUCTIONAL PROGRAM ADVISORIES 17, 43 OF 2005 AND 2007
- I-2050 IHAMB FAMILY LIFE EDUCATION
- I-2081 IHAMB-E ADVISORY 110 OF 2014
- I-7350 IKF GRADUATION REQUIRMENTS ADVISORY 74 2010
- J-0750 JFAA ADMISSION OF RESIDENT STUDENTS
- J-2550 JICD STUDENT HARASSMENT/BULLYING/CYBERBULLYING ADV. 104 OF 2013
- J-2561 JICD-R
- J-2581 JICD.E
- J-3100 JICI WEAPONS IN SCHOOL
- J-3600 JII STUDENT CONCERNS, COMPLAINTS, AND GRIEVANCES ADV. 37

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OF 2007
J-3611 JII-R
J-3631 JII-EA
J-3632 JII-EB

"(8) a plan addressing the health services needs of students in the educational process; (Below you will find a list of the **Health Services** related policies as this is defined in 6.12.6.7. The list is a comprehensive set of required services and reflects all of the services that are required by the NMAC. Policy Services suggests the district prepare a statement encompassing the health services provided. It does not include the guidance on an Individualized Healthcare Plan since the only mention of that in law is in 6.12.8. NMAC regarding its requirement in self management of Diabetes by students. Districts are only required to follow PED and Health Department directions that are formulated and placed in the New Mexico Administrative Code per 9-7-6 and 9-24-8 of NMSA 1978. Guidance without sanction in NMAC is non regulatory and may be considered optional. The guidance regarding food allergies is also non regulatory and without NMAC backing though both may be considered for implementation as needed.)

I-2350 IHB SPECIAL INSTRUCTIONAL PROGRAMS
I-2400 IHBA SPECIAL INSTRUCTIONAL PROGRAMS AND
ACCOMMODATIONS FOR DISABLED STUDENTS (Section 504 of the
Rehabilitation Act of 1973)

I-2411 IHBA-RA

I-2500 IHBC PROGRAMS FOR AT-RISK/DISADVANTAGED STUDENTS
(Student Assistance team)

I-2381 IHB-E

I-2400 IHBA SPECIAL INSTRUCTIONAL PROGRAMS AND
ACCOMMODATIONS FOR
DISABLED STUDENTS (Section 504 of the Rehabilitation Act of 1973)

I-2411 IHBA-RA

I-2450 IHBB GIFTED AND TALENTED EDUCATION

I-2500 IHBC PROGRAMS FOR AT-RISK / DISADVANTAGED
STUDENTS

(Student Assistance Team)

I-2531 IHBC-E

J-1000 JFABD ADMISSION OF HOMELESS STUDENTS

J-1011 JFABD-R

J-1031 JFABD-EA

J-1032 JFABD-EB

J-5100 JLC STUDENT HEALTH SERVICES AND REQUIREMENTS

J-5150 JLCA PHYSICAL EXAMINATIONS OF STUDENTS

J-5190 JLCAA VISION SCREENING OF STUDENTS ADVISORY 47 OR 2007

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J-5193 JLCAA-E
J-5200 JLCB IMMUNIZATIONS OF STUDENTS ADVISORY 97 OF 2012
J-5211 JLCB-R
J-5250 JLCC COMMUNICABLE/INFECTIOUS DISEASES
J-5300 JLCCA ACQUIRED IMMUNE DEFICIENCY SYNDROME AND HIV
INFECTIONS
J-5350 JLCD ADMINISTERING MEDICINES TO STUDENTS ADVISORY 30 OF
2006
J-5361 JLCD-R
J-5381 JLCD-E

" (9) a plan addressing the staff wellness needs of all school staff that minimally ensures an equitable work environment and meets the American with Disabilities Act, Part III;" (Below you will find a list of policies that relate to the **Staff Wellness** as this is defined in 6.12.6.7 NMAC and particularly policy FEA related to building and remodeling to comply with ADA.)

A-0250 AC NONDISCRIMINATION / EQUAL OPPORTUNITY
A-0261 AC-R
A-0281 AC-E
F-0650 FEA EDUCATIONAL SPECIFICATIONS FOR CONSTRUCTION
G-0200 GBA EQUAL EMPLOYMENT OPPORTUNITY
G-0211 GBA-R
G-0231 GBA-E
G-1400 GBGCA WELLNESS PROGRAMS (Communicable Diseases)
G-1431 GBGCA-E
G-3950 GCH PROFESSIONAL STAFF ORIENTATION AND TRAINING
G-4100 GCI PROFESSIONAL STAFF DEVELOPMENT
G-8100 GDH SUPPORT STAFF ORIENTATION AND TRAINING

All of the requirements indicated in 6.12.6.8 NMAC are contained in the above. Districts are encouraged to review each requirement and develop new documents or correct the materials provided to the PED back in 2006 and 2007. There are no new policies or regulations to adopt. Though the PED and Federal Government refer to these documents in total as the Wellness Policy, this does not meet the specifications for inclusion as a Policy in your policy manual, particularly in light of the PED's yearly update and evaluation demands along with the inclusion of written plans and curriculum development, none of which are kept in policy manuals. Policy Services will continue to update policies as required to meet the statutory and regulatory requirements of Federal and State Law.

If you have any questions, call Policy Services at (505) 469-0193. Ask for Dr. Donn

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RELEVANT SUPPORT MATERIALS

List of Applicable Policies for State Wellness Policy Guidance of 2016 is sent separately as a PDF document to Policy Services Clients.

Guidance Document Annotated 2016 is sent separately as a PDF document to Policy Services Clients.

Annotated Evaluation Plan Template is sent separately as a PDF document to Policy Services Clients.

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