



**New York State Education Department (NYSED)
Commissioner's Regulations §135.3 – Health Education**

**NYSED Assessment Process for Review of Local Education Agencies (LEAs)
Condom Availability Plan (CAP) and Approval of the Plan for Training
for School Personnel and/or Health Service Personnel Providing
Personal Health Guidance to Students**

NYSED USE ONLY	
School District Name:	
School District Address:	
School District Superintendent:	
CAP District Contact Person:	Title:
	Phone Number:
	Email Address:
Date Request and Materials Received:	
Supporting Materials Received:	
Reviewed By:	
Notes:	

Intent of the New York State Education Department

It is the intent of NYSED to provide an assessment rubric for LEAs to use when preparing and writing their CAP so that it is in compliance with CR§135.3(c) (2) (ii). Additionally, in order for an LEA to receive NYSED approval of a plan for training school personnel and/or health service personnel providing personal health guidance to students, the requirements set forth in the training section of the rubric, (e) must be met. NYSED's goal has been and remains, to encourage and support the school and community needs of LEAs when implementing a CAP thereby promoting local level control and decision making.

For technical assistance LEAs may contact the NYSED Office of Student Support Services (518) 486-6090, and/or Office of Curriculum and Instruction (518) 474-5922.

NYSED Commissioner's Regulation §135.3 (8 NYCRR §135.3) Health Education

It shall be the duty of the trustees and boards of education in public schools to provide a satisfactory program in health education in accordance with the needs of students in all grades. This program shall include, but not be limited to, instruction concerning the misuse of alcohol, tobacco and other drugs.

Commissioner's Regulation (CR) §135.3 (a), (b) and (c) require that appropriate instruction concerning acquired immune deficiency syndrome (AIDS) be taught as part of the sequential health education program in grades K-6, and as part of a required health education course in grades 7-8, and grades 9-12: www.p12.nysed.gov/sss/schoolhealth/schoolhealtheducation/

As stated in CR §135.3 (c) (2-ii) boards of education or trustees may make condoms available to students as part of a district's AIDS instruction program. As part of this program, the Commissioner must approve an LEA's plan for the training of school personnel and/or health service personnel as defined in CR §136.1(c) that will provide personal health guidance www.p12.nysed.gov/sss/schoolhealth/schoolhealthservices/Section136-1.html. Such plan shall be -approved upon a finding of the commissioner/ designee that the training is adequate to prepare such school personnel and/or health service personnel to provide the required personal health guidance in an effective manner.

After NYSED confirms that the LEA's CAP is in compliance with CR §135.3(c) (2)(ii) and upon receiving approval from NYSED of its plan for training, an LEA may implement its CAP.

**Scope of the NYSED Assessment Process for
Review of the CAP and Approval of a Plan for Training School Personnel and/or
Health Service Personnel Providing Personal Health Guidance to Students**

1. Upon receipt of the LEA's CAP, NYSED will send a written acknowledgment.
2. NYSED will review the LEA's CAP using the criteria in the assessment rubric to confirm that it is in compliance with CR §135.3(c) (2) (ii).
3. If all of the criteria are **not** met, NYSED will provide technical assistance and request that the CAP be revised.
4. The LEA's plan for training will be peer reviewed by the following professional stakeholder groups:
 - NYSED School Health Advisory Council (Student Support Services and Office of Curriculum Instruction)
 - NY Statewide School Health Services Center (SSHSC) or such related groups/consultants
5. Each peer reviewer will individually complete an assessment rubric.
6. If the peer reviewers find that all of the requirements of section (e) of the rubric are **not** met, NYSED will provide technical assistance and require that an approvable plan for training be resubmitted.
7. The LEA will receive a notification letter from the NYSED acknowledging its determination.
8. After initial approval, updates to the LEA's CAP and/or plan for training will not necessitate another formal review, as long as updates reflect evidenced-based sound medical and instructional practices. Significant changes to the LEA's plan for training will necessitate submission to NYSED of an amended plan and reapproval by NYSED.

Submission of LEA's CAP and Plan for Training to NYSED for Review

The CAP and Plan for Training are to be sent to:

New York State Education Department
Office of Student Support Services
Room 318-M EB
89 Washington Avenue - Albany, New York 12234

ATTN: CAP Review

**New York State Education Department (NYSED)
Commissioner's Regulations §135.3 (2) (ii) – Health Education**

Assessment Rubric for Review of LEA's CAP

NYSED USE ONLY			
<u>Criteria</u> NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Recommendations
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall (a) submit a condom distribution policy to the advisory council for appropriate recommendations. Recommended to include:			
1. Evidence of representative Advisory Council.	<input type="checkbox"/>	<input type="checkbox"/>	
2. Evidence of Advisory Council and BOE approval of CAP.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Indicates CAP coordination and integration into AIDS curriculum and related areas where appropriate (i.e. health services, health education, community agencies).	<input type="checkbox"/>	<input type="checkbox"/>	
4. Indicates CAP alignment with federal, state and local laws/policies, NYSED CR regulations and community norms.	<input type="checkbox"/>	<input type="checkbox"/>	
5. Indicates superintendent/designee to ensure compliance with district policies.	<input type="checkbox"/>	<input type="checkbox"/>	
6. Indicates principal/designee to ensure compliance in secondary school.	<input type="checkbox"/>	<input type="checkbox"/>	
7. Indicates the process for review, evaluation and annual update of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>	
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall: (b) make condoms available only to students who participate in an appropriate AIDS instruction program as defined in this section. Recommended to include :			
8. Describes organized process for verification that the student has already participated in AIDS instructional program.	<input type="checkbox"/>	<input type="checkbox"/>	
9. Describes process for parent and/or guardian annual notification of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>	
10. Describes parental opt-out provision clearly, in common terminology and states frequency of opt-out letters being sent to parents.	<input type="checkbox"/>	<input type="checkbox"/>	
11. Indicates parent, guardian, and community correspondences to be written at a literacy level the average consumer will understand (i.e., 6 th grade), with various language translations available if indicated by community needs.	<input type="checkbox"/>	<input type="checkbox"/>	
12. Describes mechanism in place to track/monitor students whose parents have opted them out of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>	
13. Indicates the CAP is available to all students under Title II of the Americans with Disabilities Act of 1992 (unless parent has opted student out).	<input type="checkbox"/>	<input type="checkbox"/>	

NYSED USE ONLY

Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Recommendations
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall: (c) provide each student receiving condoms with accurate - complete personal health guidance as to risks of disease that may result from the student's use/misuse of such product, which takes into account the student's age. Recommended to include:			
14. Describes abstinence as a healthy and safe choice, and the most effective way to prevent HIV/AIDS, pregnancy, sexually transmitted diseases (STD's).	<input type="checkbox"/>	<input type="checkbox"/>	
15. Indicates personal health guidance to students will include but not be limited to:			
a) responsible sexual behavior	<input type="checkbox"/>	<input type="checkbox"/>	
b) risks of unprotected sex and avoiding/reducing risky behavior	<input type="checkbox"/>	<input type="checkbox"/>	
c) consequences of not using a condom during sexual intercourse and/or sexual activity	<input type="checkbox"/>	<input type="checkbox"/>	
d) transmission and symptoms of HIV/STDs/pregnancy, and short and long-term effects and consequences	<input type="checkbox"/>	<input type="checkbox"/>	
e) condom effectiveness in reducing risk and importance of using condoms both consistently and correctly	<input type="checkbox"/>	<input type="checkbox"/>	
16. If male condoms are available, indicates personal health guidance to students will include but not be limited to:			
a) scientific accurate information on effectiveness	<input type="checkbox"/>	<input type="checkbox"/>	
b) evaluating the condition of a male condom	<input type="checkbox"/>	<input type="checkbox"/>	
c) proper steps on use, correct application, removal and disposal	<input type="checkbox"/>	<input type="checkbox"/>	
d) proper steps for safe storage of a male condom	<input type="checkbox"/>	<input type="checkbox"/>	
17. If female condoms are available, indicates personal health guidance to students will include but not be limited to:			
a) scientific accurate information on effectiveness	<input type="checkbox"/>	<input type="checkbox"/>	
b) evaluating the condition of a female condom	<input type="checkbox"/>	<input type="checkbox"/>	
c) proper steps on use, correct application, removal and disposal	<input type="checkbox"/>	<input type="checkbox"/>	
d) proper steps for safe storage of a female condom	<input type="checkbox"/>	<input type="checkbox"/>	
18. Clearly describes correlation between alcohol-drug use and increased potential for un-safe sexual behavior.	<input type="checkbox"/>	<input type="checkbox"/>	
19. Indicates that publicized information, and written instructional hand-outs provided to students are evidenced-based, medically accurate, comprehensive, properly referenced, and appropriate for intended audience.	<input type="checkbox"/>	<input type="checkbox"/>	
20. Indicates that publicized information and student written instructional hand outs have been reviewed and approved by the Advisory Council and/or the BOE.	<input type="checkbox"/>	<input type="checkbox"/>	

NYSED USE ONLY

Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Recommendations
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall: (d) assure that such personal health guidance is provided by health service personnel, or school personnel trained and supervised by competent health professionals or health educators. Recommended to include:			
21. Indicates a district-level professional/position that will be providing over site and guidance of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>	
22. Indicates protocols in place for all school personnel providing personal health guidance to contact district-level professional providing oversight as needed.	<input type="checkbox"/>	<input type="checkbox"/>	
23. If health service personnel are designated state credentials: MD, NP or RN (school nurse-CR136.1(c)) and indicates will be working within scope of practice.	<input type="checkbox"/>	<input type="checkbox"/>	
24. If school personnel are designated states training and supervision to be provided by competent health professionals (credentials), or certified health educators.	<input type="checkbox"/>	<input type="checkbox"/>	
25. Indicates school personnel providing health guidance are aware of, and working within defined roles.	<input type="checkbox"/>	<input type="checkbox"/>	

Assessment Rubric for Approval of LEA's Plan for Training School Personnel and/or Health Service Personnel Providing Personal Health Guidance to Students

NYSED USE ONLY

Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Recommendations for Corrective Actions
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall: (e) submit for approval by the commissioner a plan for the training of health service personnel, as defined in section 136.1(c) of this Title, or school personnel who will provide such personal health guidance. To include:			
26. Indicates credentials of trainers, format of training and frequency of training.	<input type="checkbox"/>	<input type="checkbox"/>	
27. Indicates expectation of trainers to remain current on new instructional ideas/practices, health data, and emerging trends in schools/community.	<input type="checkbox"/>	<input type="checkbox"/>	
28. Describes instructional practices to demonstrate skill building focusing on teaching/active engagement in learning with time to develop mastery.	<input type="checkbox"/>	<input type="checkbox"/>	
29. Indicates linkages are in place for referrals/resources.	<input type="checkbox"/>	<input type="checkbox"/>	
30. Defines school health service personnel individual scope of practice is aligned with NYS laws.	<input type="checkbox"/>	<input type="checkbox"/>	
31. Defines Family Education Privacy Act (FERPA) aligned with health service licensure, confidentiality and record maintenance of student health information	<input type="checkbox"/>	<input type="checkbox"/>	

NYSED USE ONLY

<u>Criteria</u>	Yes	No	Recommendations for Corrective Actions
NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools			
The LEA's BOE making condoms available to students as part of the district's AIDS instruction program shall: (e) submit for approval by the commissioner a plan for the training of health service personnel, as defined in section 136.1(c) of this Title, or school personnel who will provide such personal health guidance. To include:			
32. Defines the Health Insurance and Portability Accountability Act (HIPAA). To include adolescent consent confidentiality laws for practice outside of a school health office (i.e.- school based health clinic (SBHC), medical provider's office).	<input type="checkbox"/>	<input type="checkbox"/>	
33. Indicates sufficient personnel time and resources are available to assure programs and trainings are well developed and implemented.	<input type="checkbox"/>	<input type="checkbox"/>	
34. Indicates sufficient time is available when providing health guidance to students for questions, discussion, and demonstration of application of knowledge and skills.	<input type="checkbox"/>	<input type="checkbox"/>	
35. Indicates environment providing health guidance as accessible, adolescent-friendly, ensuring confidentiality and privacy, having flexible hours, a plan for walk-ins, and services as free.	<input type="checkbox"/>	<input type="checkbox"/>	
36. Describes staff development being focused on skills-driven health literacy/functional knowledge for students to learn essential information to develop mastery, personal safety and prevention of risky behaviors.	<input type="checkbox"/>	<input type="checkbox"/>	
37. Describes training to include but not be limited to: adolescent health/development with inclusion of all sexual orientations and gender neutral language, relationship management, risk reduction strategies, with delivery in a non-judgmental manner.	<input type="checkbox"/>	<input type="checkbox"/>	
38. Describes training to include but not be limited to: competency on culture, race, ethnicity, literacy, sexual orientation, gender identity/expression and disabilities.	<input type="checkbox"/>	<input type="checkbox"/>	
39. Describes data/information/resources to be current, professional/peer reviewed, medically accurate, evidenced-based, appropriately referenced/cited, and from a reliable source, (i.e.: CDC, NYSDOH, NYSDOH-AIDS Institute).	<input type="checkbox"/>	<input type="checkbox"/>	
40. Indicates process to incorporate synthesis of current medical and scientific knowledge and data, while establishing future direction.	<input type="checkbox"/>	<input type="checkbox"/>	
41. Indicates and encourages the importance of open communication with partners, parents/guardians and health care providers, with acknowledgement of supporting roles of these groups.	<input type="checkbox"/>	<input type="checkbox"/>	

CAP

___ Yes, the criteria for CR§135.3(c) (2) (ii) are met.

___ No, some of the criteria for CR§135.3(c) (2) (ii) are not met and it is recommended that the LEA revise its CAP accordingly. Technical assistance may be offered and provided by NYSED.

Plan for Training School Personnel and/or Health Service Personnel Providing Personal Health Guidance to Students

___ Yes, the requirements listed in section (e) of the assessment rubric have been met and I recommend that the plan for training be approved.

___ No, the requirements listed in section (e) of the assessment rubric have not been met and I do not recommend that the plan for training be approved. Please see the recommendations for corrective actions on the assessment rubric. Technical assistance may be offered and provided by NYSED.

Reviewer: _____ Credential(s): _____ Date: _____

Learning Standards and Guidance

The New York State Learning Standards for Health Education

1. Personal Health and Fitness
2. A Safe and Healthy Environment
3. Resource Management

<http://www.p12.nysed.gov/ciai/cores.htm>

A Guidance Document for Achieving the New York State Learning Standards in Health Education

<http://www.p12.nysed.gov/ss/schoolhealth/schoolhealtheducation/GuidanceDocumentFinal1105.pdf>

Resources

The Centers for Disease Control and Prevention Adolescent and School Health

<http://www.cdc.gov/healthyyouth/>

The New York State Department of Health AIDS Institute

<http://www.health.ny.gov/diseases/aids/about/index.htm>

National Sexuality Education Standards

<http://www.futureofsexeducation.org/documents/josh-fose-standards-web.pdf>

Disclaimer

This document provides LEA's with a framework for developing their CAP prior to submission to NYSED and the requirements for an approvable plan for training school personnel and/or health service personnel providing personal health guidance to students. It is intended for use by administrators, school health services personnel and health educators. Every attempt has been made to ensure the information contained in this document is accurate and reflects current best practices. Upon submission, NYSED will review an LEA's CAP to ensure it conforms with CR §135.2(c) (2) (ii). This document is to be used for guidance purposes only except that a CAP may not be implemented until NYSED approves the plan for training, which must meet the requirements established in this document (section e). The CAP and any local instructional strategies developed based upon this document, in whole or in part, should be consistent with local community values and needs and should be reviewed through normal school district procedures, which may include review by legal counsel and the school district's medical director.

Links Updated April 25, 2014