

**SUBCHAPTER G*****Health and Physical Education*****PART**

<b>135</b>	<b>Health, Physical Education and Recreation</b>
<b>136</b>	<b>Health Service</b>
<b>137</b>	<b>Educational Use of Hypodermic Syringes and Needles</b>

**PART 135****HEALTH, PHYSICAL EDUCATION AND RECREATION**

(Statutory authority: Education Law, §§ 207, 305[1], [2], 803, 804-a, 91.1, 3001-b, 3204[3];  
L. 1991, ch. 498)

Sec.	
135.1	Definitions
135.2	General regulations
135.3	Health education
135.4	Physical education
135.5	First aid knowledge and skills requirements for coaches
135.6	Comprehensive school health education demonstration program

**§ 135.1 Definitions.**

Definitions as used in this Part:

- (a) *Commissioner* means the Commissioner of Education.
- (b) *Department* means the Education Department of the State of New York.
- (c) *Satisfactory, appropriate, approved, acceptable, adequate, equivalent, essential, sufficient, suitable* mean satisfactory, appropriate, approved, acceptable, adequate, equivalent, essential, sufficient, suitable, respectively, in the judgment of the commissioner.
- (d) *School personnel* means persons employed by school authorities in conducting the schools.
- (e) *Adaptive physical education* means a specially designed program of developmental activities, games, sports and rhythms suited to the interests, capacities and limitations of pupils with handicapping conditions who may not safely or successfully engage in unrestricted participation in the activities of the regular physical education program.
- (f) *Athletic association* means an approved central organization of schools joined together on a large geographic area or statewide basis for the purpose of governing athletic programs for all its member schools.
- (g) *Bona fide student* means a regularly enrolled student who is taking sufficient subjects to make an aggregate amount of three courses and who satisfies the physical education requirement.
- (h) *Extraclass periods in physical education* mean those sessions organized for instruction and practice in skills, attitudes and knowledge through participation in individual, group and team activities organized on an intramural, extramural or interschool athletic basis to supplement regular physical education class instruction.
- (i) *Extramural activities* mean those games or other events which involve the participation of pupils from two or more school districts and which are conducted as play-days or sports days at the end of the intramural season.
- (j) *Health education* means instruction in understandings, attitudes and behavior in regard to the several dimensions of health. This instruction relates to alcohol, tobacco and other drugs, safety, mental health, nutrition, dental health, sensory perception, disease prevention and control, environmental and public health, consumer health, first aid, and other health-related areas.

(k) *Instructional physical education* means the required physical education program which has as its foundation planned sequential learning experiences for all students.

(l) *Interschool activities* mean those which provide competition between representatives of two or more schools and which offer enriched opportunities for the selected and more highly skilled individuals.

(m) *Intramural activities* mean those activities conducted within one school district involving only those pupils enrolled in such school district and which are organized to serve the entire enrollment.

(n) *Invitation activities* mean those games or other events dealing with one sport, arranged by invitation of one school to one or more other schools without leading to any formal schedule and championship.

(o) *League* means an organization of schools joined for the purpose of providing athletic competition among schools of comparable size, interests, and within reasonable distance of each other.

(p) *Mixed competition* means the combination of male and female pupils participating on the same interschool athletic teams.

(q) *Organized practice* means a session of an athletic squad or group organized for interschool athletics for the purpose of providing instruction and practice in physical conditioning activities, skills, team play and game strategy, under the supervision of a qualified school official.

(r) *Physical fitness activities* mean those physical activities which are designed to develop endurance, strength and agility and to fit the individual so that he can perform the task repeatedly without undue fatigue and with a reserve capacity to meet unexpected stresses and hazards.

(s) *Physiological maturity* means a stage of maturation identified by the school physician in determining an appropriate level of interschool athletic competition in accordance with standards established by the commissioner.

(t) *Recreation* means the program which is organized to include types of activities such as arts and crafts, athletics, dramatics, music, rhythms, sports, swimming and water safety provided at the discretion of school district authorities under the supervision of qualified personnel and designed to provide for the worthy use of leisure by individuals and groups.

(u) *Sports day* means a day when pupils from two or more schools meet and engage in a variety of competitive sports events.

(v) *Section* means an organization of schools within a specified geographic area which holds membership in an athletic association, and is established for the purpose of administering athletic programs for the member schools and leagues within such area.

#### **Historical Note**

Sec. arrids. filed: Feb. 27, 1968; July 1, 1974; Feb. 27, 1978; repealed, new filed June 29, 1982; amd. filed May 29, 1985 eff. Sept. 1, 1985. Added (v).

#### **§ 135.2 General regulations.**

(a) All schools under the jurisdiction of the State Education Department shall provide a program of health, physical education and recreation in an environment conducive to healthful living. This program shall include:

- (1) health and safety education;
- (2) physical education, including athletics; and
- (3) recreation.

(b) It shall be the duty of trustees and boards of education:

- (1) to provide approved and adequate personnel and facilities;
- (2) to maintain for each child cumulative records covering the essential features of the health and physical education program and, when a pupil transfers to another school, to provide such school with a certified transcript thereof;
- (3) to make reports to the department on forms prescribed by the commissioner.

532 Education  
CHAPTER 11 REGULATIONS OF THE COMMISSIONER

11/15/96  
§ 135.3

**§ 135.3 Health education.**

- (a) *Provision for health education.* It shall be the duty of the trustees and boards of education to provide a satisfactory program in health education in accordance with the needs of pupils in all grades. This program shall include, but shall not be limited to, instruction concerning the misuse of alcohol, tobacco and other drugs.
- (b) *Health education in the elementary schools.* (1) The elementary school curriculum shall include a sequential health education program for all pupils, grades K-6. In the kindergarten and primary grades, the teacher shall provide for pupil participation in planned activities for developing attitudes, knowledge and behavior that contribute to their own sense of self-worth, respect for their bodies and ability to make constructive decisions regarding their social and emotional, as well as physical, health. Personal health guidance shall also be provided according to the individual needs of pupils. This guidance shall include the development of specific habits necessary to maintain good individual and community health. In addition to continued health guidance, provision shall be made in the school program of grades 4-6 for planned units of teaching which shall include health instruction through which pupils may become increasingly self-reliant in solving their own health problems and those of the group. Health education in the elementary school grades shall be taught by the regular classroom teachers.  
  
(2) All elementary schools shall provide appropriate instruction concerning the acquired immune deficiency syndrome (AIDS) as part of the sequential health education program for all pupils, grades K-6. Such instruction shall be designed to provide accurate information to pupils concerning the nature of the disease, methods of transmission, and methods of prevention; shall stress abstinence as the most appropriate and effective premarital protection against AIDS, and shall be age appropriate and consistent with community values. No pupil shall be required to receive instruction concerning the methods of prevention of AIDS if the parent or legal guardian of such pupil has filed with the principal of the school which the pupil attends a written request that the pupil not participate in such instruction, with an assurance that the pupil will receive such instruction at home. In public schools, such instruction shall be given during an existing class period using existing instructional personnel, and the board of education or trustees shall provide appropriate training and curriculum materials for the instructional staff who provide such instruction and instructional materials to the parents who request such materials. In public schools, the board of education or trustees shall establish an advisory council which shall be responsible for making recommendations concerning the content, implementation, and evaluation of an AIDS instruction program. The advisory council shall consist of parents, school board members, appropriate school personnel, and community representatives, including representatives from religious organizations. Each board of education or trustees shall determine the content of the curriculum and approve its implementation, and shall be responsible for the evaluation of the district's AIDS instruction program.
- (c) *Health education in the secondary schools.* (1) The secondary school curriculum shall include health education as a constant for all pupils. In addition to continued health guidance in the junior high school grades, provision shall also be made for a separate one-half year course. In addition to continued health guidance in the senior high school, provision shall also be made for an approved one-half unit course. Health education shall be required for all pupils in the junior and senior high school grades and shall be taught by teachers holding a certificate to teach health. A member of each faculty with approved preparation shall be designated as health coordinator, in order that the entire faculty may cooperate in realizing the potential healthteaching values of the school programs. The health coordinator shall insure that related school courses are conducted in a manner supportive of health education, and provide for cooperation with community agencies and use of community resources necessary for achieving a complete school -community health education program.

(2) (i) All secondary schools shall provide appropriate instruction concerning the acquired immune deficiency syndrome (AIDS) as part of required health education courses in grades 7-8 and in grades 9-12. Such instruction shall be designed to provide accurate information to pupils concerning the nature of the disease, methods of transmission, and methods of prevention; shall stress abstinence as the most appropriate and effective premarital protection against AIDS, and shall be age appropriate and consistent with community

1-1-95  
§ 135.3

(Reissued 7/95)

533 Education  
TITLE 8 EDUCATION

values. No pupil shall be required to receive instruction concerning the methods of prevention of AIDS if the parent or legal guardian of such pupil has filed with the principal of the school which the pupil attends a written request that the pupil not participate in such instruction, with an assurance that the pupil will receive such instruction at home. In public schools, such instruction shall be given during an existing class period using existing instructional personnel, and the board of education or trustees shall provide appropriate training and curriculum materials for the instructional staff who provide such instruction and instructional materials to the parents who request such materials. In public schools, the board of education or trustees shall establish an advisory council which shall be responsible for making recommendations concerning the content, implementation, and evaluation of an AIDS instruction program. The advisory council shall consist of parents, school board members, appropriate school personnel, and community representatives, including representatives from religious organizations. Each board of education or trustees shall determine the content of the curriculum and approve its implementation and shall be responsible for the evaluation of the district's AIDS instruction program.

(ii) Boards of education or trustees that make condoms available to pupils as part of the district's AIDS instruction program shall:

(a) submit a condom distribution policy to the advisory council for appropriate recommendations;

(b) make condoms available only to pupils who participate in an appropriate AIDS instruction program as defined in this section;

(c) provide each pupil receiving condoms with accurate and complete personal health guidance as to the risks of disease that may result from the pupil's use or misuse of such product, which appropriately takes into account the child's age;

(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; and

(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. Such plan shall be approved upon a finding of the commissioner that the training is adequate to prepare such personnel or school personnel to provide the required personal health guidance in an effective manner.

#### **Historical Note**

Sec. repealed, new filed Feb. 27,1968; arnds. filed: March 17,1970; Feb. 27,1978; Sept. 23, 1987 as emergency measure; Nov. 6, 1987 as emergency measure; Dec. 15, 1987; Oct. 22, 1991 as emergency measure; Dec. 24, 1991 eff. Jan. 9, 1992. Amended (c)(2).

#### **§ 135.4 Physical education.**

(a) *School district plans.* It shall be the duty of trustees and boards of education to develop and implement school district plans to provide physical education experiences for all pupils as provided in this section. Such current plans shall be kept on file in the school district office and shall be filed with the Division of Physical Education, Fitness, Health, Nutrition and Safety Services. All school districts shall comply with the provisions of this section by August 1, 1982. However, the requirement for submission of a plan shall become effective by January 1, 1983. A school district may conduct an instructional physical education program which differs from, but is equivalent to, the required program of instruction set forth in paragraph (2) of subdivision (c) of this section, with the approval of the commissioner. An equivalent program may be implemented only after approval from the Division of Physical Education, Fitness, Health, Nutrition and Safety Services. A request for approval to conduct an equivalent

instructional physical education program shall be filed with the Division of Physical Education, Fitness, Health, Nutrition and Safety Services, and shall include the:

(1) program goals and objectives;

534 Education (Reissued 7/95)  
CHAPTER 11 REGULATIONS OF THE COMMISSIONER

1-1-95  
§ 135.4

(2) way in which students are to be scheduled and the length of time daily, weekly, monthly or yearly;

(3) program activities offered at each grade level or each year of instruction; and

(4) assessment activities for determining the students' performance toward the goals and objectives of the program.

(b) *Nonpublic schools.* Similar courses of instruction shall be prescribed and maintained in private schools in the State, and all pupils in grades kindergarten through 12 shall attend such courses. If such courses are not established and maintained in any private school, instruction in such school shall not be deemed to be substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.

(c) *Program plans.* School district plans shall include the following:

(1) Curriculum. (i) The curriculum shall be designed to:

(a) promote physical activity and the attainment of physical fitness, and a desire to maintain physical fitness throughout life;

(b) attain competency in the management of the body and useful physical skills;

(c) emphasize safety practices;

(d) motivate expression and communication;

(e) promote individual and group understanding;

(f) provide knowledge and appreciation of physical education activities;

(g) make each individual aware of the effect of physical activity upon the body;

(h) provide opportunities for the exercise of pupil initiative, leadership and responsibility; and

(i) reinforce basic learnings of other areas of the total school curriculum.

(ii) There shall be experiences of sufficient variety in each of the following:

(a) basic and creative movement;

(b) rhythm and dance;

(c) games;

(d) perceptual -motor skills;

(e) individual and team sports;

(f) gymnastics;

(g) aquatics, where possible;

- (h) lifetime sports activities;
  - (i) outdoor living skills; and
  - (j) other appropriate activities which promote the development of boys and girls.
- (iii) There shall be opportunity provided for participation in appropriate extra-class activities.
- (iv) There shall be activities adapted to meet the needs of pupils who are temporarily or permanently unable to participate in the regular program of physical education. Adaptive physical education programs shall be taught by a certified physical education teacher.

(v) There shall be continuous evaluation of the instructional program and assessment of individual pupil needs and progress. Appropriate cumulative records shall be maintained which cover the essential features of the physical education program for each pupil, and when a pupil transfers to another school, such records shall be transferred with the student's transcript.

(2) Required instruction. (i) Elementary instructional program-grades K through 6.

(a) all pupils in grades K-3 shall participate in the physical education program on a daily basis. All pupils in grades 4-6 shall participate in the physical education program not

1-1-95  
§ 135.4

(Reissued 7/95)

535 Education  
TITLE 8 EDUCATION

less than three times each week. The minimum time devoted to such programs shall be at least 120 minutes in each calendar week, exclusive of any time that may be required for dressing and showering; or

(b) as provided in an equivalent program approved by the Commissioner of Education.

(ii) Secondary instructional program-grades 7 through 12. All secondary pupils shall have the opportunity for regular physical education, but not less than three times per week in one semester and two times per week in the other semester, taught by a certified physical education teacher, and all such pupils shall participate in the physical education program either:

(a) a minimum of three periods per calendar week during one semester of each school year and two periods during the other semester; or

(b) a comparable time each semester if the school is organized in other patterns; or

(c) for pupils in grades 10 through 12 only, a comparable time each semester in extraclass programs for those pupils who have demonstrated acceptable levels of physical fitness, physical skills, and knowledge of physical education activities; or

(d) for pupils in grades 10 through 12 only, a comparable time each semester in outof-school activities approved by the physical education staff and the school administration; or

(e) as provided in an equivalent program approved by the Commissioner of Education.

(3) Attendance. (i) All pupils shall attend and participate in the physical education program as approved in the school plan for physical education and as indicated by physicians' examinations and other tests approved by the Commissioner of Education. Individual medical certificates of limitations must indicate the area of the program in which the pupil may participate.

(ii) School district plans shall indicate through the sequential curriculum the steps to be taken to insure that each pupil meets the requirement for participation in physical education program which complies with the provisions of this section. School districts may award local diploma credit for the required program, and may also submit plans for elective units in physical education for additional credit.

(4) Personnel. (i) Elementary classroom teachers may provide instruction under the direction and supervision of a certified physical education teacher.

(ii) When students participate in out-of-school activities as part of alternative programs, such activities may be taught by noncertified personnel, provided they have appropriate experience and are so approved by the board of education.

(iii) Each school district operating a high school shall employ a director of physical education who shall have certification in physical education and administrative and supervisory service. Such director shall provide leadership and supervision for the class instruction, intramural activities, and interschool athletic competition in the total physical education program. Where there are extenuating circumstances, a member of the physical education staff may be designated for such responsibilities, upon approval of the commissioner. School districts may share the services of a director of physical education.

(5) Facilities. Trustees and boards of education shall provide adequate indoor and outdoor facilities for the physical education program at all grade levels. Appropriate guidelines to schools with respect to facilities will be provided by the Division of Physical Education, Fitness, Health, Nutrition and Safety Services.

(6) Administrative procedures. (i) School district plans for the physical education program shall include information on the following administrative procedures:

(a) curriculum development in relation to grade levels, as referred to in paragraph (1) of this subdivision;

536 Education (Reissued 7/95)  
CHAPTER 11 REGULATIONS OF THE COMMISSIONER

1-1-95  
§ 135.4

(b) appropriate examinations and tests to be employed by school authorities in determining pupil needs and progress in physical fitness, knowledge and skills;

(c) class size and grouping patterns which are compatible with the activities being taught;

(d) use of nonschool facilities;

(e) use of noncertified persons, such as student leaders, practice teachers, etc.;

(f) use of supplementary personnel which are described in section 80.33 of this Title;

(g) summer school physical education programs, if conducted; and

(h) policies and procedures for the conduct of extraclass programs.

(ii) Periodic reports regarding the status and progress of equivalent programs which have been approved by the commissioner shall be filed with the Division of Physical Education, Fitness, Health, Nutrition and Safety Services as requested.

(7) Basic code for extraclass athletic activities. Athletic participation in all schools shall be planned so as to conform to the following:

(i) General provisions. It shall be the duty of trustees and boards of education:

(a) to conduct school extraclass athletic activities in accordance with this Part and such additional rules consistent with this basic code as may be adopted by such boards relating to items not covered specifically in this code. A board may authorize appropriate staff members to consult with representatives of other school systems and make recommendations to the board for the enactment of such rules;

(b) to make the extraclass athletic activities an integral part of the physical education program;

(c) to permit individuals to serve as coaches of interschool athletic teams, other than intramural teams or extramural teams, in accordance with the following:

(1) certified physical education teachers may coach any sport in any school;

(2) teachers with coaching qualifications and experience certified only in areas other than physical education may coach any sport in any school, provided they have completed:

(i) the first aid requirement set forth in section 135.5 of this Part; and

(ii) an approved pre-service or in-service education program for coaches or will complete such a program within three years of appointment. Such program shall include an approved course in philosophy, principles and organization of athletics which shall be completed within two years after initial appointment as a coach. Upon application to the Commissioner of Education, setting forth the reasons for which an extension is necessary, the period in which to complete such training may be extended to no more than five years after such appointment. Such approved programs for coaches will consist of one of the following (credits and hours vary depending upon the contact and endurance involved in the sport): a department- approved college program of from two to eight credits; or a department- approved in-service education program, conducted by schools, colleges, professional organizations or other recognized groups or agencies, from 30 to 120 clock hours; or an equivalent experience which is approved by the Commissioner of Education;

(3) notwithstanding the provisions of section 80.18 of this Title, other persons with coaching qualifications and experience satisfactory to the board of education may be employed as temporary coaches of interschool sport teams, when certified teachers with coaching qualifications and experience are not available, upon the issuance by the commissioner of a temporary coaching license. A temporary coaching license, valid for one year, will be issued under the following conditions:

(i) the superintendent of schools shall submit an application for a temporary coaching license, in which the inability of the district to obtain the services of a

1-1-95  
§ 135.4

(Reissued 7/95)

537 Education  
TITLE 8 EDUCATION

certified teacher with coaching qualifications and experience is demonstrated to the satisfaction of the commissioner;

(ii) candidates for initial temporary licensure shall have completed the first aid requirement set forth in section 135.5 of this Part prior to the first day of coaching;

(iii) candidates for the first renewal of a temporary license shall have completed or be enrolled in an approved course in philosophy, principles and organization of athletics; and

(iv) candidates for any subsequent renewal of a temporary license shall have completed or demonstrate evidence of satisfactory progress towards the completion of an approved pre-service or in-service education program for coaches which shall include an approved course in philosophy, principles and organization of athletics. Such approved programs for coaches shall consist of one of the following (credits and hours vary depending upon the contact and endurance involved in the sport): a department-approved college program of from two to eight credits; or a departmentapproved in-service education program, conducted by schools, colleges, professional organizations or other recognized groups or agencies, from 30 to 120 clock hours; or an equivalent experience which is approved by the Commissioner of Education;

(4) persons who were employed as coaches in New York State schools on or before September 1, 1974 and who do not meet the requirements set forth in subclause (1), (2) or (3) of this clause, may continue to coach any sport;

(d) to determine the need for an athletic trainer and to permit individuals to serve as athletic trainers for interschool athletic teams, intramural teams or physical education classes only in accordance with the following:

(1) Qualifications. Persons serving as an athletic trainer shall possess a valid certificate from the National Athletic Trainers Association or have completed a course of study comparable to that required for certification by the National Athletic Trainers Association.

(2) Scope of duties and responsibilities. The services provided by an athletic trainer shall include, but not be limited to, the following:

(i) provide first aid and sport injury emergency services for students;



- (ii) provide school personnel and students with advice and services on physical conditioning programs, training methods, screening procedures, injury prevention and use of safety equipment for sports participation; and
- (iii) supervise the training room, maintain and order first aid supplies, and maintain records on student injuries and illnesses relative to sports participation in cooperation with the school health service office.
- (e) to give primary consideration to the well-being of individual boys and girls in the conduct of games and sports;
- (f) to sacrifice no individual for the sake of winning events;
- (g) to conduct all activities under adequate safety provisions;
- (h) to equalize insofar, as possible the powers of opponents in individual and group athletic competition;
- (i) to provide adequate health examination before participation in strenuous activity and periodically throughout the season as necessary, and to permit no pupil to participate in such activity without the approval of the school medical officer;
- (j) to maintain an equitable division of facilities, budget and personnel between boys and girls;
- (k) to permit no athletic team to represent a school except in conformance with this Part;
- (l) to approve all traveling of individuals or teams under their jurisdiction;

538 Education

(Reissued 7/95)

1-1-95

CHAPTER 11 REGULATIONS OF THE COMMISSIONER

§ 135.4

- (m) to permit no post-season games or tournaments;
  - (n) to permit no post-schedule games or tournaments other than those conducted by school authorities in accordance with approved standards;
  - (o) to permit any individual or team to represent a school only in games, meets or tournaments which are conducted by secondary school authorities;
  - (p) to provide opportunity for instruction, practice and competition for pupils in grades four through six in extraclass programs which shall be basically intramural activities;
  - (q) to provide opportunity for instruction and practice for pupils in grades 7 through 12 in extraclass athletic activities which are intramural activities and approved interschool competition;
  - (r) to limit athletic activities conducted by the school to appropriate competition and practice between pupils in grades 7 through 12, except that a post-graduate pupil may participate in intramural activities;
  - (s) to provide the same general degree of opportunity for participation in intramural and interscholastic activities to both males and females.
- (ii) Provisions for interschool athletic activities for pupils in grades 7 through 12. It shall be the duty of the trustees and boards of education to conduct interschool athletic competition for grades 7 through 12 in accordance with the following:
- (a) Interschool athletic competition for pupils in junior high school grades seven, eight and nine. Such competition shall be conducted in accordance with the following: Seventh and eighth grade teams may participate only with teams of like grade groups, with the following exceptions:
    - (1) In junior high school, competition may include grades seven through nine.
    - (2) In six-year high schools, competition may include grades seven through nine.
    - (3) In four-year high schools, ninth grade pupils may participate in junior high competition.

(4) A board of education may permit pupils in grades no lower than seventh to compete on any senior high school team, or permit senior high school pupils to compete on any teams in grades no lower than seventh, provided the pupils are placed at levels of competition appropriate to their physiological maturity, physical fitness and skills in relationship to other pupils on those teams in accordance with standards established by the commissioner.

(b) Interschool athletic competition for pupils in senior high school grades 9, 10, 11 and 12. Inter-high school athletic competition shall be limited to competition between high school teams, composed of pupils in grades 9 to 12 inclusive, except as otherwise provided in subclause (a)(4) of this subparagraph. Such activities shall be conducted in accordance with the following:

(1) Duration of competition. A pupil shall be eligible for senior high school athletic competition in a sport during each of four consecutive seasons of such sport commencing with the pupil's entry into the ninth grade and prior to graduation, except as otherwise provided in this subclause. If a board of education has adopted a policy, pursuant to subclause (a)(4) of this subparagraph, to permit pupils in the seventh and eighth grades to compete in senior high school athletic competition, such pupils shall be eligible for competition during five consecutive seasons of a sport commencing with the pupil's entry into the eighth grade, or six consecutive seasons of a sport commencing with the pupil's entry into the seventh grade. A pupil enters competition in a given year when the pupil is a member of the team in the sport involved, and that team has completed at least one contest. A pupil shall be eligible for interschool competition in grades 9, 10, 11 and 12 until the last day of the school year in which he or she attains the age of 19, except as otherwise provided in subclause (a)(4) of this subparagraph or in

11/15/96  
§ 135.4

539 Education  
TITLE 8 EDUCATION

this subclause. The eligibility for competition of a pupil who has not attained the age of 19 years prior to July 1st may be extended under the following circumstances.

(i) If sufficient evidence is presented by the chief school officer to the section to show that the pupil's failure to enter competition during one or more seasons of a sport was caused by illness, accident, or similar circumstances beyond the control of the student, such pupil's eligibility shall be extended accordingly in that sport.

(ii) If the chief school officer demonstrates to the satisfaction of the section that the pupil's failure to enter competition during one or more seasons of a sport is caused by such pupil's enrollment in a national or international student exchange program or foreign study program, that as a result of such enrollment the pupil will be required to attend school for one or more additional semesters in order to graduate, and that the pupil did not enter competition in any sport while enrolled in such program, such pupil's eligibility shall be extended accordingly in such sport.

(2) Registration. A pupil shall be eligible for interschool competition in a sport during a semester, provided that he is a bona fide student, enrolled during the first 15 school days of such semester, is registered in the equivalent of three regular courses, is meeting the physical education requirement, and has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

(3) Sports standards. Interschool athletic programs shall be planned so as to provide opportunities for pupils to participate in a sufficient variety of types of sports. Sports standards, such as number of contests, length of seasons, time between contests, required practice days, etc., for all interschool sports shall conform to guidelines established by the Commissioner of Education.

(c) Male and female pupils on interschool athletic teams.

(1) Equal opportunity to participate in interschool competition, either on separate teams or in mixed competition on the same team, shall be provided to male and female students, except as hereinafter provided. In schools that do not provide separate competition for male and female students in a specific sport, no student shall be excluded from such competition solely by reason of sex, except in accordance with the provisions of subclauses (2) and (4) of this clause. For the purposes of this clause, baseball and softball shall be considered to constitute a single sport.

(2) In the sports of baseball, basketball, boxing, field hockey, football, ice hockey, lacrosse, rugby, soccer, softball, speedball, team handball, power volleyball where the height of the net is set at less than eight feet, and wrestling, the fitness of a given student to participate in mixed competition shall be determined by a review panel consisting of the school physician, a physical education teacher designated by the principal of the school, and if requested by the parents of the pupil, a physician selected by such parents. Such panel shall make its determination by majority vote of the members, and in accordance with standards and criteria issued by the department.

(3) Where a school provides separate competition for male and female pupils in interschool athletic competition in a specific sport, the superintendent of schools, or in the case of a nonpublic school or school system which elects to be governed by this clause, the chief executive officer of the school or school system, may permit a female or females to participate on a team organized for males. However, where separate competition is provided, males may not participate on teams organized for females.

(4) Where a school does not provide separate competition for male and female pupils in interschool athletic competition in a specific sport, the superintendent of schools, or in the case of a nonpublic school or school system which elects to be governed by this clause, the chief executive officer of the school or school system, or the section may decline to permit a male or males to participate on a team organized for females upon a finding that such participation would have a significant adverse effect

540 Education  
CHAPTER 11 REGULATIONS OF THE COMMISSIONER

11/15/96  
§ 135.6

upon the opportunity of females to participate successfully in interschool competition in that sport.

#### **Historical Note**

Sec. amds. filed: April 6, 1963; Jan. 8, 1969; March 1 and 30, 1971; April 28, 1971; Dec. 21, 1971; May 29, 1973; Feb. 28, 1974; April 2, 1974; repealed, new filed July 1, 1974; amds. filed: March 25, 1975; May 31, 1977; Nov. 28, 1977; Dec. 17, 1979; Sept. 29, 1980; June 29, 1982; May 29, 1985; Nov. 19, 1985 as emergency measure, expired 60 days after filing; Jan. 27, 1986; March 25, 1986; July 27, 1987; May 24, 1988; June 25, 1991; Nov. 12, 1996 as emergency measure; Feb. 10, 1997 as emergency measure eff. Feb. 10, 1997; Feb. 10, 1997 eff. Feb. 27, 1997. Amended (c)(7)(ii)(b)(1).

#### **§ 135.5 First aid knowledge and skills requirements for coaches.**

(a) Coaches of extra class periods in physical education, as defined in section 135.1(h) of this Part, shall meet the requirements of this section.

(b) Except as provided in subdivision (c) of this section, all coaches must hold valid certification in first aid knowledge and skills, including instruction in the administration of adult cardiopulmonary resuscitation, as issued by the American National Red Cross, or meet equivalent requirements as set forth in this section.

(c) By January 15, 1993 all coaches employed on or after January 15, 1992 must hold valid certification in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation, as issued by the American National Red Cross, or meet equivalent requirements as set forth in this section.

(d) For the purpose of this section, the following shall be deemed as equivalent to certification in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation as issued by the American National Red Cross:

(1) completion of an approved course for coaches in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation;

(2) completion of an approved college or university first aid knowledge and skills course, including instruction in administration of adult cardiopulmonary resuscitation;

(3) completion of approved college or university courses in athletic training and sports medicine, which include first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation; or

(4) equivalent experience which is approved by the Commissioner of Education.

(e) Except as provided in subdivision (c) of this section, prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by the American National Red Cross or that they meet equivalent requirements as set forth in subdivision (d) of this section.

#### Historical Note

Sec. filed Aug. 3, 1978; amd. filed Dec. 24, 1991 eff. Feb. 7, 1992.

### § 135.6 Comprehensive school health education demonstration program.

(a) *Definition.* As used in this section, *eligible local educational agency* means a board of cooperative educational services or the trustees or board of education of a public school district, except that the board of education of a community school district within the City of New York shall not be an eligible local educational agency unless its participation in the demonstration program is authorized by the board of education of the city school district of the City of New York.

(b) *Program components.* The comprehensive school health education demonstration program established pursuant to section 804-a of the Education Law shall be limited to health education in grades K through 6 and shall consist of the following components:

02/15/97  
§ 135.6

541 Education  
TITLE 8 EDUCATION

(1) Developer grants for comprehensive school health education programs.

(i) Developer grants may be awarded to eligible local educational agencies for the development, implementation, and evaluation of a comprehensive health education program, including such activities as:

(a) coordination of health instruction with other available programs in the school and community related to health education;

(b) provision of in-service training and materials for elementary level school teachers in comprehensive health education;

(c) development and implementation of evaluation procedures to measure students' knowledge, skills, behaviors and attitudes prior to and after program implementation; and

(d) development and implementation of a mechanism for project maintenance and long-range programming.

(ii) Subject to the availability of funds, recipients of developer grants who successfully complete the development, implementation and evaluation of a program in accordance with subparagraph (i) of this paragraph shall be required to assist other eligible local educational agencies with replication of such program.

(2) Health education regional training centers. Grants may be awarded to eligible local educational agencies for participation in the establishment of health education regional training centers for the purpose of developing materials and providing training programs to meet the needs of teachers in the implementation of comprehensive school health education programs at the elementary level.

(3) Statewide advocacy program. Grants may be awarded to eligible local educational agencies for participation in the development and implementation of a statewide advocacy program, to create an awareness on the part of school administrators of the need to develop strategies for implementing comprehensive school health education programs at the elementary level.

(4) Replication grants. Grants may be awarded to eligible local educational agencies for the replication of an elementary level health education program which has been validated by the National Diffusion Network, or which is consistent with the State syllabus in health education and has been approved by the commissioner for the purpose of this section.

(c) *Grant applications.* An eligible local educational agency desiring to participate in the program shall submit for approval a grant application in a form and by the date prescribed by the commissioner to implement one or more of the program components set forth in paragraphs (b , )(1)-(4) of this section. The grant application shall set forth so much of the following information with respect as is appropriate to the program components for which funding is requested:

- (1) the specific need for the program;
- (2) the specific goals and objectives to be achieved;
- (3) the schools and grades to be served within the public school district, board of cooperative educational services or community school district;
- (4) the specific services to be provided;
- (5) the number and types of participants to be served;
- (6) a description of the health curriculum and/or materials to be developed, implemented, evaluated and/or replicated and the manner in which this will be accomplished;
- (7) the type of in-service training or advocacy functions to be conducted;
- (8) a description of any proposed contractual/consultant arrangements;
- (9) evaluation strategies to be undertaken;
- (10) a description of how the program will be coordinated with existing resources and services in the school and community;
- (11) a description of how long-range planning will be instituted for program continuance;
- (12) a description of how the program will be replicated, if appropriate;

542 Education  
CHAPTER 11 REGULATIONS OF THE COMMISSIONER

02/15/97  
§ 135.6

- (13) other information determined by the commissioner to be essential to the operation of the program; and
- (14) a proposed first-year budget, including staffing needs.

(d) No grant to a local educational agency shall exceed \$200,000 per school year.

(e) *Allowable costs.* Grant funds shall be used solely for allowable costs of the comprehensive school health education program. In no case shall the cost of services already required of, or currently provided by, the local educational agency as of the effective date of this section be considered allowable costs for the purposes of this section. Allowable costs may include:

- (1) Salaries of certified teachers including health educators, elementary classroom teachers, and school nurse-teachers; administrators, including health coordinators; curriculum and training specialists; and non instructional support personnel;
- (2) employee benefits;
- (3) teacher in-service training costs, including stipends and substitute pay;
- (4) contractual and consultant costs, including staff development, curriculum development, coordination activities, evaluation, travel expense, rental of space, and other services designed to achieve program goals and objectives;
- (5) supplies and materials;

- (6) instructional equipment;
  - (7) rental of other related equipment;
  - (8) library and computer professional and student resources and materials;
  - (9) reasonable costs of evaluation;
  - (10) curriculum development activities;
  - (11) replication;
  - (12) travel essential to program goals and objectives;
  - (13) a maximum five-percent overhead allowance;
  - (14) program costs related to printing, duplication and communication; and
  - (15) other costs determined to be essential to program goals and objectives, as approved by the commissioner.
- (f) *Termination of grant.* The commissioner may terminate a grant at any time when in the judgment of the commissioner a program is not meeting the purposes of this section.
- (g) *Reports and records.* (1) Each participating local educational agency shall:
- (i) file an interim report with the commissioner on or before December 31st of the current year of funding and a final report on or before July 15th of the school year next following the current year, containing such information as the commissioner may require;
  - (ii) file an annual evaluation report by a date prescribed by the commissioner, which contains such information as the commissioner may require; and
  - (iii) notify the department of any change in professional staff, program design or ability to meet stated goals and objectives.
- (2) Financial records shall be maintained.
- (3) All programs shall be subject to the general supervision of the commissioner and the department who shall have the right to examine the facilities, operations and records relating to such program at any time.

#### **Historical Note**

Sec. filed: Sept. 30, 1986 as emergency measure; Nov. 25, 1986; amd. filed April 26, 1988 eff. June 10, 1988.  
Amended (d).