



**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**

LEA RECOMMENDED TO COMPLETE AND RETURN TO NYSED WITH CAP		
School District Name:		
School District Address:		
School District Superintendent:		
CAP District Contact Person(s):	Title:	
	Phone Number:	
	Email Address:	
Supporting Materials Attached:		
Submitted By:	Title:	Date:

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. Additional resources, including a webinar on implementing a CAP, are available on the Sexual Health page of the NYS Center for School Health (NYSCSH) www.schoolhealthny.com. These resources have been developed by the NYSED and the NYSCSH in collaboration with the NYS Department of Health. 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. WHEREAS, Regulations of the Commissioner of the New York State Education Department at Section 135.3 require schools to provide appropriate instruction concerning AIDS and does not specifically refer to HIV. However, HIV is the virus that, if not properly treated, is known to cause AIDS. Hence

this rubric addresses the prevention of both HIV/AIDS and the term HIV/AIDS will be used throughout this rubric. www.p12.nysed.gov/sss/schoolhealth/schoolhealtheducation/ As stated in CR §135.3 (c) (2-ii) boards of education (BOE) or trustees may make condoms available to students as part of a district's HIV/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. It is requested that LEA's submit this completed assessment rubric noting the page number where the information can be located.
4. If all of the criteria are **not** met, NYSED will provide technical assistance and request the CAP is revised.
5. The LEA's plan for training will be reviewed by professional stakeholders:
 - NYSED's Offices of Student Support Services (SSS) and Office of Curriculum and Instruction (OCI)
 - NY State Center for School Health (NYSCSH) or such related groups/consultants
6. Each reviewer will individually complete an assessment rubric.
7. If the 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 is resubmitted.
8. The LEA will receive a notification letter from NYSED acknowledging its determination.
9. After initial approval of an LEA's CAP and/or plan for training, updates to maintain current information that is evidenced-based sound medical and instructional practices will not necessitate another formal review. However, significant changes to the LEA's plan for training will necessitate submission to NYSED of an amended plan and re-approval by NYSED following the identified process above

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**

Recommended for LEA to Complete First Four Rubric Columns Send Completed Rubric with LEA CAP to NYSED				
Section (a)				
Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Found On Page #	NYSED's Recommendations
LEA's BOE making condoms available to students as part of the district's HIV/AIDS instruction program shall (a) submit a condom distribution policy to the advisory council (parents, school board members, appropriate school personnel and community representatives including representatives from a religious organization) for appropriate recommendations. Recommended to include:				
1. Evidence of Advisory Council, and BOE approval of CAP.	<input type="checkbox"/>	<input type="checkbox"/>		
2. Indicates CAP coordination and integration into the HIV/AIDS curriculum and related areas where appropriate (i.e. health services, health education, community agencies).	<input type="checkbox"/>	<input type="checkbox"/>		
3. Indicates CAP alignment with federal, state and local laws/policies, NYSED CR regulations and community norms.	<input type="checkbox"/>	<input type="checkbox"/>		
4. Indicates superintendent/designee to ensure compliance with district policies; and principal/designee to ensure compliance with secondary school policies.	<input type="checkbox"/>	<input type="checkbox"/>		
5. Indicates the process for ongoing review and evaluation, with annual update of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>		
Section (b)				
LEA's BOE making condoms available to students as part of the district's HIV/AIDS instruction program shall: (b) make condoms available only to students who participate in an appropriate HIV/AIDS instruction program as defined in this section. Recommended to include:				
6. Describes organized process for verification that student has already participated in HIV/AIDS instructional program.	<input type="checkbox"/>	<input type="checkbox"/>		
7. Describes process for parent/guardian annual CAP notification.	<input type="checkbox"/>	<input type="checkbox"/>		
8. Describes parental opt-out provision clearly , in common terminology and states frequency of opt-out letters sent to parent	<input type="checkbox"/>	<input type="checkbox"/>		
9. Indicates parent/guardian, community correspondences to be written at a literacy level average consumer will understand (6 th) and various language translations indicated by community need.	<input type="checkbox"/>	<input type="checkbox"/>		
10. Describes mechanism in place to track/monitor students whose parents have opted them out of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>		
11. Indicates CAP is available to all students under Title II-American with Disabilities Act (unless parent has opted student out).	<input type="checkbox"/>	<input type="checkbox"/>		
Section (c)				
Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Found On Page #	NYSED's Recommendations
The LEA's BOE making condoms available to students as part of the district's HIV/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:				
12. Describes abstinence as healthy and safe choice for responsible sexual behavior, and the most effective way to prevent HIV/AIDS, pregnancy, sexually transmitted diseases (STD's).	<input type="checkbox"/>	<input type="checkbox"/>		

13. Indicates personal health guidance to students will include but not be limited to: a) risks of unprotected sex and avoiding/reducing risky behavior	<input type="checkbox"/>	<input type="checkbox"/>		
b) potential consequences of not using a condom during sexual intercourse and/or sexual activity	<input type="checkbox"/>	<input type="checkbox"/>		
c) transmission and symptoms of HIV/STDs/pregnancy, and short and long-term effects and consequences	<input type="checkbox"/>	<input type="checkbox"/>		
d) condom effectiveness in reducing risk and importance of using condoms both consistently and correctly	<input type="checkbox"/>	<input type="checkbox"/>		
14. If male and/or female condoms are available, indicates personal personal health guidance to students will include but not be limited to: a) proper steps on the safe storage, use, correct application, removal and disposal of a condom.	<input type="checkbox"/>	<input type="checkbox"/>		
b) evaluating the condition of the condom	<input type="checkbox"/>	<input type="checkbox"/>		
c) scientific accurate information on effectiveness of a condom.	<input type="checkbox"/>	<input type="checkbox"/>		
15. Clearly describes correlation between alcohol-drug use and increased potential for un-safe sexual behavior.	<input type="checkbox"/>	<input type="checkbox"/>		
16. Indicates that publicized information, and written instructional hand-outs provided to students are evidenced-based, medically accurate, comprehensive, properly referenced, appropriate for intended audience and have been reviewed and approved by the Advisory Council and/or the BOE.	<input type="checkbox"/>	<input type="checkbox"/>		
Section (d)				
Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Found On Page #	NYSED's Recommendations
The LEA's BOE making condoms available to students as part of the district's HIV/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 and/or health educators. Recommended to include:				
17. Indicates a district-level professional/position that will be providing oversight and guidance of the CAP.	<input type="checkbox"/>	<input type="checkbox"/>		
18. 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"/>		
19. If health service personnel are designated state credentials (i.e., MD, NP, RN) and indicated that the health professional is working within the scope of practice aligned with NYS laws (i.e., school nurse – CR 136.1 (c))	<input type="checkbox"/>	<input type="checkbox"/>		
20. If school personnel are designated, states training and supervision to be provided by health professionals or certified health educators 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

Training Section (e)				
Criteria NYSED CR §135.3 (c-2ii) Condom Availability in Secondary Schools	Yes	No	Found On Page #	NYSED's Recommendations to LEA's for Corrective Actions

The LEA's BOE making condoms available to students as part of the district's HIV/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:

21. Indicates credentials of trainers, format of training, frequency frequency of training and expectation of trainers to remain current on instructional practices, health data and emerging trends in schools and communities.	<input type="checkbox"/>	<input type="checkbox"/>		
22. 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"/>		
23. Indicates linkages are in place for community referrals.	<input type="checkbox"/>	<input type="checkbox"/>		
24. Defines Family Education Privacy Act (FERPA) is aligned with health service licensure, confidentiality, and record maintenance of student health information.	<input type="checkbox"/>	<input type="checkbox"/>		
25. 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"/>		
26. Indicates sufficient personnel time and resources are available to assure programs and trainings are well developed and implemented.	<input type="checkbox"/>	<input type="checkbox"/>		
27. 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"/>		
28. Indicates environment providing health guidance as accessible, adolescent-friendly, non-judgmental, ensuring confidentiality and privacy, having flexible hours, a plan for walk-ins, and services as free.	<input type="checkbox"/>	<input type="checkbox"/>		
29. 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"/>		
30. 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 a non-judgmental delivery.	<input type="checkbox"/>	<input type="checkbox"/>		
31. 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"/>		
32. 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-AI).	<input type="checkbox"/>	<input type="checkbox"/>		
33. Indicates process to incorporate synthesis of current medical scientific knowledge and data, and establishing future direction.	<input type="checkbox"/>	<input type="checkbox"/>		
34. Indicates and encourages the importance of open communication with partners, parents/guardians and health care providers, with acknowledgement of the supporting roles of these groups.	<input type="checkbox"/>	<input type="checkbox"/>		

New York State Reviewer to Complete After Assessment of the LEA's 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 requested from 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 requested from NYSED.

Reviewer Signature: _____ Title _____ Date _____

Reviewers/Credential(s): are current members of the New York State Department's Office of Student Support Services and the New York Statewide School Health Services Center consisting of professionals with expertise in HIV/AIDS prevention, school health services, health and physical education, teaching and school administration.

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 to 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.

Updated 11/14/2017