

[See POLICY ALERT Nos. 125, 133, 205 and 218]

## R 3218 USE, POSSESSION, OR DISTRIBUTION OF SUBSTANCES ABUSE

### A. Definition

1. **“Board physician” means a physician currently licensed by the New Jersey Board of Medical Examiners in medicine or osteopathy and appointed by the Board of Education.**
- 2.1. “Principal or designee” means the teaching staff member’s Principal or a staff member designated by the Principal to be responsible at the time of the alleged violation or the teaching staff member’s supervisor or a staff member designated by the teaching staff member’s supervisor to be responsible at the time of the alleged violation.
- 3.2. **“Substance” or “substances” as defined in N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a)** means alcoholic beverages, any controlled dangerous substances, including anabolic steroids as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2, or any chemical or chemical compound ~~which releases~~ **capable of releasing** vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in N.J.S.A. 2C:35-10.4, and over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.  
  
**“Substance” shall also include any substance that is represented to be, represented to contain, mimics, or that looks like an alcoholic beverage or controlled dangerous substance under New Jersey law, including but not limited to, any substance that contains or is represented to contain chemicals or any substance that produces the same effect as or is represented to produce the same effect as a prohibited substance or any functional or structural analog of a prohibited substance, including, but not limited to, K-2, Spice, salvia, or any other synthetic cannabinoid.**
- 4.3. **“Substance test” means a test conducted by a Board-approved State-licensed—clinical** laboratory using accepted substance use practices, accepted chain of custody procedures, and testing methodology recommended by the laboratory instrument’s manufacturer.



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5.4. “Under the influence” means the **use or** presence of a substance as defined in Policy 3218 and this Regulation as confirmed in a medical examination and substance test.

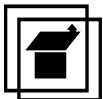
B. Procedures to be ~~Followed~~followed ~~When~~when a Teaching ~~Staff~~staff ~~Member~~member has ~~Unlawfully~~unlawfully ~~Possessed~~possessed or has been ~~Involved~~involved in the ~~Distribution~~distribution of a ~~Controlled~~controlled ~~Dangerous~~dangerous ~~Substances~~substance: is Suspected to be Under the Influence of a Substance

1. Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of ~~their~~his or her employment, has reason to believe that a staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall report the matter as soon as possible to the Principal or designee in accordance with the provisions of Policy 3218 and N.J.A.C. 6A:16-6.3(a).

a. In accordance with the provisions of N.J.A.C. 6A:16-6.3(a)1, upon receiving a report, the Principal or designee shall notify the Superintendent who shall notify, as soon as possible, the County Prosecutor or other law enforcement official designated by the County Prosecutor to receive such information.

b. In accordance with the provisions of N.J.A.C. 6A:16-6.3(a)2, the Superintendent or designee shall provide to the County Prosecutor or designee all known information concerning the matter including the identity of the staff member involved.

c. A staff member who unlawfully possessed or in any way has been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall be subject to appropriate discipline, which may include, but not be limited to, termination of a non-tenured teaching staff member or the filing of tenure charges for a tenured teaching staff member in accordance with law.



C. Procedures to be ~~Followed~~followed ~~When~~when a ~~Teaching~~teaching ~~Staff~~Staff ~~Member~~member is ~~Suspected~~suspected to be ~~Under~~under the ~~Influence~~influence of a ~~Substance~~substance:

1. The following procedures shall be used when a teaching staff member is suspected of being under the influence of a substance during work hours or at a school-sponsored function ~~where the teaching staff member has been assigned job responsibilities~~:-
  - a. The Principal or designee, upon receiving a report or information that a teaching staff member may be under the influence of a substance during work hours or at a school-sponsored function, ~~where the teaching staff member has been assigned job responsibilities~~ will:
    - (1) Immediately notify the Superintendent ~~of Schools~~;
    - (2) Immediately meet with the teaching staff member;
      - (a) The Principal or designee may include another staff member in this meeting; and
      - (b) The teaching staff member suspected of being under the influence may include another staff member or a representative of their~~his or her~~ choice in this meeting.
  - b. The Principal or designee shall present to the teaching staff member the report or information supporting the suspicion that the teaching staff member may be under the influence of a substance.
  - c. The teaching staff member shall be provided an opportunity to respond to the report or information presented by the Principal or designee.
  - d. In the event the Principal or designee believes that the teaching staff member may be under the influence of a substance after meeting with the teaching staff member, the Principal or designee will arrange for an immediate medical examination **by the Board physician. The medical examination shall** ~~to~~ include a substance



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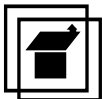
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test administered by the Board physician or a Board-approved laboratory.

- e. The teaching staff member shall be transported to the examination and testing location by means of transportation approved by the Superintendent or designee and shall be accompanied by the Principal or designee.
  - f. The teaching staff member, prior to the medical examination and substance test, will be informed by the Board physician or the physician's designee on the type of testing to be completed and the substances that will be tested.
  - g. The teaching staff member may, prior to being examined or and tested, disclose to the Board physician or designee any prescription medicine, over-the-counter medicine or supplements, or any other reason why the teaching staff member's test results may be positive.
  - h. **Refusal by A** the teaching staff member's refusal to consent to the medical examination, which includes a substance test, be examined or tested in accordance with the provisions of Policy 3218 and this Regulation will be deemed as a positive test result for substances.
2. The results of the medical examination and substance test shall be used by the Board physician to determine if the teaching staff member is under the influence of any substance as defined in Policy 3218 and this Regulation. The substance test procedures will provide for a confirmation confirming test using acceptable confirmation test procedures.
    - a. Any specimen determined by the Board physician or Board-approved laboratory to have been adulterated by the teaching staff member will be deemed a positive test result for substances.
  3. The physician shall receive the results of the substance test shall be provided to the Superintendent and Board physician within twenty-four hours of the test being administered, or. If the results of the substance test are not available within twenty-four hours, the physician shall report the results to the Superintendent and the teaching staff member as soon as the test results are available. The Superintendent shall provide the teaching staff member with these results.



- a. In the event that the results of the medical examination and substance test are not provided to the Superintendent within twenty-four hours of the test being administered or as soon as the test results are available, it will be deemed a positive test result for substances.
4. If the **Board** physician determines, based upon the medical examination and the results of the substance test, that the teaching staff member was not under the influence of a substance during work hours or at a school-sponsored function, ~~where the teaching staff member was assigned job responsibilities~~, the physician will notify the Superintendent of such results and the teaching staff member shall return to ~~their~~ his or her position in the school district, ~~unless the Superintendent has a reason why the teaching staff member should not be returned~~ return to their his or her position. ~~Any records or documentation related to the incident shall not be included in the teaching staff member's personnel file.~~
  5. If the **Board** physician determines, based upon the medical examination and the results of the substance test, that the teaching staff member was under the influence of a substance during work hours or at a school-sponsored function ~~where the teaching staff member was assigned job responsibilities~~, the **Board** physician will:
    - a. Discuss the results of the examination and substance test with the teaching staff member and provide the teaching staff member an opportunity to present any medical or other reasons for the **Board** physician's determination.
    - b. Provide the teaching staff member an opportunity to have the substance test results confirmed by a ~~State-licensed clinical~~ laboratory selected by the **teaching** staff member and approved by the **Board** physician and Superintendent, ~~at the staff member's own expense~~.
      - (1) The **Board** physician will schedule and coordinate the **confirmation** ~~confirming~~ test procedures, including the acceptable time period for the **confirmation** ~~confirming~~ test to be conducted based on the existing test results, and the time in which a **confirmation** ~~confirming~~ test result ~~would~~



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will be valid. **This confirmation test shall be paid for by the teaching staff member.**

- (2) The **confirmation** ~~confirming substance~~ test results must be provided to the **Board physician and Superintendent** within the time period required by the **Board physician**.
  - (3) Any **confirmation** ~~confirming~~ test results provided to the **Board physician and Superintendent** ~~not within~~outside of the time period required by the **Board physician** shall not be accepted and the teaching staff member shall be determined to have waived ~~their~~his or her right to a ~~have submit~~the results of a confirmation test ~~confirming substance test~~ ~~considered by the physician.~~
- c. After completing the requirements in 5.a. and b. above, the **Board physician** shall make a final determination whether the teaching staff member was under the influence of a substance during the work hours or at a school-sponsored function ~~where the teaching staff member was assigned job responsibilities.~~
- (1) If the **Board physician** makes a final determination that the teaching staff member was not under the influence during work hours or at a school-sponsored function ~~where the teaching staff member was assigned job responsibilities~~, the **Board physician** will report a **final determination** ~~these results~~ to the Superintendent and the teaching staff member shall return to ~~their~~his or her position in the school district, **unless the Superintendent has a reason why the teaching staff member should not be returned to their his or her position.** ~~and Aany records~~Records or documentation regarding a **negative medical examination or substance test** ~~related to the incident~~ shall not be included in the teaching staff member's personnel file.
  - (2) If the **Board physician** makes a final determination that the teaching staff member was under the influence during work hours or at a school-sponsored function ~~where the teaching staff member was assigned job responsibilities~~, the **Board physician** will report a **final determination** ~~these results~~ to



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the Superintendent of Schools and the teaching staff member will be required to meet with the Superintendent.

DC. Procedures to be ~~Followed~~followed ~~When~~when a ~~Teaching~~teaching ~~Staff~~staff ~~Member~~member is ~~Determined~~determined to be ~~Under~~under the ~~Influence~~influence of a ~~Substance~~substance:

1. Any teaching staff member ~~who has been~~ determined by the **Board** physician to be under the influence of a substance during work hours or at a school-sponsored function ~~where the teaching staff member was assigned job responsibilities~~ shall be required to meet with the Superintendent.
  - a. The teaching staff member may include a staff member or a representative of ~~their~~his or her choice in this meeting.
2. The Superintendent will provide the teaching staff member an opportunity to respond to the **Board** physician's determination.
3. A teaching staff member ~~who has been~~ determined to ~~be have been~~ under the influence of a substance during work hours or at a school-sponsored function, ~~where the teaching staff member was assigned job responsibilities~~ or who is deemed to have tested positive for such substances, will be subject to appropriate discipline ~~to be determined by the Superintendent and/or the Board of Education~~, which may include termination of a non-tenured teaching staff member or the filing of tenure charges ~~against~~ a tenured teaching staff member. (Note: portions of #3 including 3.a.b.c. either rewritten or excluded (3.a.b.c. excluded from this document) by Marc Z...see S/E reg.guide. In addition, #4 & #5 of this section added by Marc Z., not in S/E)
4. Notwithstanding the above, if an employee is suspected of substance ~~abuse~~use and, in the judgment of the Board of Education and/or its agents or Administrators, shows evidence of deviation from normal physical or mental health, the Board may require the employee to undergo a medical examination in accordance with N.J.S.A. 18A:16-2, et seq. An employee who fails to comply with this requirement shall be subject to discipline.
5. An employee who has tested positive for substance ~~abuse~~use or who refuses to be examined for suspected substance ~~abuse~~use shall not be permitted on school grounds and shall be required to leave the premises immediately. If



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the employee refuses to leave the premises when required, the appropriate law enforcement agency will be ~~called~~ contacted and a police report will be filed.

Adopted: 15 January 2013

Revised: 21 July 2015; \_\_\_\_\_

