

SUPPORT STAFF MEMBERS

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Use, Possession, or Distribution of Substances

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R 4218 USE, POSSESSION, OR DISTRIBUTION OF SUBSTANCES

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. “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; any chemical or chemical compound which releases 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.

3. “Substance test” means a test conducted by a Board-approved laboratory using accepted substance use practices, accepted chain of custody procedures, and testing methodology recommended by the laboratory instrument’s manufacturer.
4. “Support staff member’s supervisor” or “supervisor” means the building or district administrative staff member who is responsible for supervising the support staff member. For the purposes of this Policy and Regulation, the support staff member’s supervisor shall be the support staff member’s



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Principal, or any other administrative staff member responsible at the time of the alleged violation or as designated by the Superintendent.

5. “Under the influence” means the use or presence of a substance as defined in Policy 4218 and this Regulation as confirmed in a medical examination and substance test.
- B. Procedures to be followed when a staff member has unlawfully possessed or has been involved in the distribution of a controlled dangerous substance:
1. Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of 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 staff member’s supervisor in accordance with the provisions of Policy 4218 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 supervisor 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 support staff member or the filing of tenure charges for a tenured support staff member in accordance with law.
- C. Procedures to be followed when a support staff member is suspected to be under the influence of a substance:



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1. The following procedures shall be used when a support staff member is suspected of being under the influence of a substance during work hours or at a school-sponsored function:
 - a. The support staff member's supervisor, upon receiving a report or information that a support staff member may be under the influence of a substance during work hours or at a school-sponsored function will:
 - (1) Immediately notify the Superintendent;
 - (2) Immediately meet with the support staff member;
 - (a) The support staff member's supervisor may include another staff member in this meeting; and
 - (b) The support staff member suspected of being under the influence may include another staff member or a representative of his or her choice in this meeting.
 - b. The support staff member's supervisor shall present to the support staff member the report or information supporting the suspicion the support staff member may be under the influence of a substance.
 - c. The support staff member shall be provided an opportunity to respond to the report or information presented by the supervisor.
 - d. In the event the supervisor or designee believes the support staff member may be under the influence of a substance after meeting with the support staff member, the supervisor will arrange for an immediate medical examination by the Board physician. The medical examination shall include a substance test administered by the Board physician or a Board-approved laboratory.
 - e. The support 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 support staff member's supervisor or designee.
 - f. The support staff member, prior to the medical examination and substance test, will be informed by the Board physician or designee



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of the type of testing to be completed and the substances that will be tested.

- g. The support staff member may, prior to being examined or tested, disclose to the Board physician or designee any prescription medicine, over-the-counter medicine or supplements, or any other reason why the support staff member's test results may be positive.
 - h. Refusal by a support staff member to consent to the medical examination, which includes a substance test, will be deemed 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 support staff member is under the influence of any substance as defined in Policy 4218 and this Regulation. The substance test procedures will provide for a confirmation test using acceptable confirmation test procedures.
 - a. Any specimen determined by the Board physician or Board-approved laboratory to have been adulterated by the support staff member will be deemed a positive test result for substances.
 3. 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 as soon as the test results are available. The Superintendent shall provide the support 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 result for substances.
 4. If the Board physician determines, based upon the medical examination and the results of the substance test, that the support staff member was not under the influence of a substance during work hours or at a school-sponsored function, the support staff member shall return to his or her position in the school district, unless the Superintendent has a reason why the support staff member should not be returned to his or her position.
 5. If the Board physician determines, based upon the medical examination and the results of the substance test, that the support staff member was under the



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influence of a substance during work hours or at a school-sponsored function, the physician will:

- a. Discuss the results of the examination and substance test with the support staff member and provide the support staff member an opportunity to present any medical or other reasons for the Board physician's determination.
- b. Provide the support staff member an opportunity to have the substance test results confirmed by a laboratory selected by the support 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 test procedures, including the acceptable time period for the confirmation test to be conducted based on the existing test results, and the time in which a confirmation test result will be valid. This confirmation test shall be paid for by the support staff member.
 - (2) The confirmation test results must be provided to the Board physician and Superintendent within the time period required by the Board physician.
 - (3) Any confirmation test results provided to the Board physician and Superintendent outside of the time period required by the Board physician shall not be accepted and the support staff member shall be determined to have waived his or her right to a submit the results of a confirmation test.
- c. After completing the requirements in 5. a. and b. above, the Board physician shall make a final determination whether the support staff member was under the influence of a substance during the work hours or at a school-sponsored function.
 - (1) If the Board physician makes a final determination that the support staff member was not under the influence during work hours or at a school-sponsored function, the Board physician will report a final determination to the Superintendent and the support staff member shall return to his or her position in the school district, unless the



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Superintendent has a reason why the support staff member should not be returned to his or her position. Records or documentation regarding a negative medical examination or substance test shall not be included in the support staff member's personnel file.

- (2) If the Board physician makes a final determination that the support staff member was under the influence during work hours or at a school-sponsored function, the Board physician will report a final determination to the Superintendent.

D. Procedures to be followed when a support staff member is determined to be under the influence of a substance:

1. Any support staff member determined by the Board physician to be under the influence of a substance during work hours or at a school-sponsored function shall be required to meet with the Superintendent.
 - a. The support staff member may include a staff member or a representative of his or her choice in this meeting.
2. The Superintendent will provide the support staff member an opportunity to respond to the Board physician's determination.
3. A support staff member determined to be under the influence of a substance during work hours or at a school-sponsored function, 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 Board of Education, which may include termination of a non-tenured support staff member, or the filing of tenure charges against a tenured support staff member.
4. Notwithstanding the above, if an employee is suspected of substance 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 use or who refuses to be examined for suspected substance use shall not be permitted on school



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grounds and shall be required to leave the premises immediately. If the employee refuses to leave the premises when required, the appropriate law enforcement agency will be contacted and a police report will be filed.

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