



# POLICY

## SUPPORT STAFF MEMBERS

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Board of Education**

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### **4218 USE, POSSESSION, OR DISTRIBUTION OF SUBSTANCES**

The Board of Education recognizes a support staff member who reports to work under the influence of a substance poses a significant threat to their health, safety, and welfare and the health, safety, and welfare of others, including students and other staff members. The Board strongly advises any support staff member that has a dependency on a substance as defined in this Policy to seek appropriate treatment. The Board has an obligation and the right to maintain a safe and healthy work environment and adopts this Policy as an important component toward maintaining a safe environment in the school district.

For the purpose of this Policy, “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.

A support staff member shall be required to submit to an immediate medical examination to include a substance test if the support staff member’s supervisor has reasonable suspicion to believe a support staff member is under the influence of a substance during work hours or at a school-sponsored function where the support staff member has been assigned job responsibilities. Refusal by a support staff member to consent to the medical examination including a substance test will be deemed a positive result for substances. In the event the results of the medical examination and substance test are not provided to the Superintendent, within twenty-four hours or as soon as the test results are available, it will be deemed a positive result for substances and the support staff member shall be subject to appropriate discipline. Any required medical examination and testing shall be paid for by the Board.

In the event the Board physician determines the support staff member was under the influence of a substance, the determination shall be reported to the Superintendent and the support staff member will be subject to appropriate discipline. Appropriate discipline may include, but not be limited to, withholding an increment, terminating a non-tenured support staff member, and/or filing tenure charges for a tenured support staff member in accordance with law. The support staff member will be afforded the opportunity to have positive test results confirmed using acceptable confirmation test practices. This confirmation test shall be paid for by the support staff member.

In the event a support staff member’s medical examination and substance test results are negative for a substance or if the Board physician determines the support staff member was not under the influence of a substance, the results or determination shall be reported to the Superintendent and



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the support staff member shall be returned to their position unless the Superintendent has a reason the support staff member should not be returned to their position.

In accordance with the requirements of N.J.A.C. 6A:16-6.3(a), any staff member who, in the course of their employment, has reason to believe 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 in the absence of the Principal, to the staff member's supervisor responsible at the time of the alleged violation. Either the Principal or the staff member's supervisor responsible at the time of the alleged violation 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. 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.

In accordance with the provisions of N.J.A.C. 6A:16-6.3(a)3, the Superintendent or designee shall not disclose the identity of a staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or drug abuse problem, provided the staff member is not reasonably believed to be involved or implicated in drug-distribution activities. An admission by a staff member in response to questioning initiated by the Principal or Superintendent's designee or following the discovery by the Principal or Superintendent's designee of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.

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, pursuant to N.J.A.C. 6A:16-6.3, 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.

A support 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 support staff member has been assigned job responsibilities may be offered a Last Chance Agreement upon the recommendation of the Superintendent and approval by the Board. A written Last Chance Agreement must be approved by the Board.

42 CFR Part 2

N.J.S.A. 18A:16-3; 18A:40A-9

N.J.A.C. 6A:16-4.1; 6A:16-6.3; 6A:16-6.5

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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.
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 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 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 their employment, has reason to believe 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).



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- 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**

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 where the support staff member has been assigned job responsibilities.
  - a. The support staff member's supervisor, upon receiving a report or information a support staff member may be under the influence of a substance during work hours or at a school-sponsored function where the support staff member has been assigned job responsibilities 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 their 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



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- 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 on 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 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 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.



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- a. In the event the results of the medical examination and substance test are not provided to the Superintendent, 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 where the support staff member was assigned job responsibilities, the support staff member shall return to their position in the school district unless the Superintendent has a reason the support staff member should not be returned to their 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 influence of a substance during work hours or at a school-sponsored function where the support staff member was assigned job responsibilities, the Board 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.
      - (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 would 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 not within the time period required by the Board physician shall not be accepted and the support staff member shall be determined to have waived their right to have the results of a confirmation test considered.



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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 work hours or at a school-sponsored function where the support staff member was assigned job responsibilities.

(1) If the Board physician makes a final determination the support staff member was not under the influence during work hours or at a school-sponsored function where the support staff member was assigned job responsibilities, the Board physician will report a final determination to the Superintendent and the support staff member shall return to their position in the school district unless the Superintendent has a reason the support staff member should not be returned to their position. Any 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 the support staff member was under the influence during work hours or at a school-sponsored function where the support staff member was assigned job responsibilities, 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 where the support staff member was assigned job responsibilities shall be required to meet with the Superintendent.

a. The support staff member may include a staff member or a representative of their 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 where the support staff member was assigned job responsibilities will be subject to appropriate discipline which may include, but not be limited to:

a. Withholding an increment;



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- b. Terminating a non-tenured support staff member; and/or
- c. Filing tenure charges for a tenured support staff member.