

# REGULATION GUIDE

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## R 4218 SUBSTANCE ABUSE

### A. Definition

1. “Substance” or “substances” 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 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.
2. “Substance test” means a test conducted by a State-licensed clinical laboratory using accepted substance use practices, accepted chain of custody procedures, and testing methodology recommended by the laboratory instrument’s manufacturer.
3. “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, School Business Administrator/Board Secretary, district Director or Supervisor, or any other administrative staff member designated by the Superintendent.
4. “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 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.



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- 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 will:
  - (1) Immediately notify the Superintendent of Schools;
  - (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 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 to include a substance test.
- 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 physician or the physician's designee on the type of testing to be completed and the substances that will be tested.



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- g. The support staff member may, prior to being examined and tested, disclose to the physician 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. A support staff member's refusal to be examined or tested in accordance with the provisions of Policy 4218 and this Regulation will be deemed as a positive test for substances. An employee will be deemed as refusing to take the test if he/she:
- (1) Fails to appear for any test after being directed to do so;
  - (2) Fails to remain at the testing site until the testing process is complete;
  - (3) Fails to provide a urine specimen for any test required by this policy;
  - (4) Fails to permit the observation or monitoring of providing a specimen in the case of a directly observed or monitored collection in a drug test;
  - (5) Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - (6) Fails or declines to take a second test if directed to do so;
  - (7) Fails to undergo a medical examination or evaluation, as directed to do so;
  - (8) Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or



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2. The medical examination and substance test shall be used by the 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 confirming test using acceptable confirmation test procedures.
3. The physician shall receive the results of the substance test within twenty-four hours of the test being administered. 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 support staff member as soon as the test results are available.
4. If the 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, the physician will notify the Superintendent of such results and the support staff member shall return to their position in the school district. Any records or documentation related to the incident shall not be included in the support staff member's personnel file.
5. If the 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, 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 physician's determination.
  - b. Provide the support staff member an opportunity to have the substance test results confirmed by a State-licensed clinical laboratory selected by the staff member and approved by the physician.
    - (1) The physician will schedule and coordinate the confirming test procedures, including the acceptable time period for the confirming test to be conducted based on the existing test results, and the time in which a confirming test result would be valid.



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(2) The confirming substance test results must be provided to the physician within the time period required by the physician.

(3) Any confirming test results provided to the physician not within the time period required by the physician shall not be accepted and the support staff member shall be determined to have waived their right to have a confirming substance test considered by the physician.

c. After completing the requirements in a. and b. above the physician shall make a final determination whether the support staff member was under the influence of a substance during the work hours.

(1) If the physician makes a final determination the support staff member was not under the influence during work hours, the physician will report these results to the Superintendent and the support staff member shall return to their position in the school district and any records or documentation related to the incident shall not be included in the support staff member's personnel file.

(2) If the physician makes a final determination the support staff member was under the influence during work hours, the physician will report these results to the Superintendent of Schools and the support staff member will be required to meet with the Superintendent.

C. Procedures to be Followed When a Support Staff Member is Determined to be Under the Influence of a Substance

1. Any support staff member who has been determined by the physician to be under the influence of a substance during work hours 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.



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2. The Superintendent will provide the support staff member an opportunity to respond to the physician's determination.
3. A support staff member who has been determined to have been under the influence of a substance during work hours will be subject to appropriate discipline which may include termination of or the filing of tenure charges for a tenured support staff member.

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