

USE, POSSESSION, OR DISTRIBUTION OF SUBSTANCES ABUSE (M)

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

R 4218 **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.**
12. **“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 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.
23. **“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.
34. **“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 responsible at the time of the alleged violation or as** designated by the Superintendent.
45. **“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.**



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B. Procedures to be Followed When a Support Staff Member has Unlawfully Possessed or has been Involved in the Distribution of a Controlled Dangerous 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 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).

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 support staff member.

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



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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 **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 **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



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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 ~~the physician's~~ 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** ~~and~~ 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. ~~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 **result** for substances. **Additionally,** ~~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



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pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or

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** ~~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 support staff member will be deemed a positive 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 support staff member as soon as the test results are available.~~ **The Superintendent shall provide the support staff member with these results.**
 - 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 physician will notify the Superintendent of such results 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 related to the incident shall not be included in the support staff member's personnel file.~~



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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 school-sponsored function where the support staff member was assigned joy 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 **State licensed clinical** 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** ~~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 be valid. **This confirmation test shall be paid for by the support 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 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 **a** have **the results of** a **confirmation**



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~~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 support staff member was under the influence of a substance during ~~the~~ 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 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 **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 physician will report **the final determination** ~~these results~~ to the Superintendent ~~of Schools and the support staff member will be required to meet with the Superintendent.~~

ED. 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 **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.



REGULATION

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- 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 ~~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 support staff member was assigned job responsibilities** will be subject to appropriate discipline which may include, **but not limited to:**
 - a. **Withholding an increment;**
 - b. **Terminating** ~~termination of~~ **a non-tenured support staff member; and/or**
 - c. ~~the Filing of~~ tenure charges for a tenured support staff member.

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