

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.**
 21. “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.
 32. “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.
 43. “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.
 54. “Under the influence” means the 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 When a ~~Teaching~~ 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.



- 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 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 When a Teaching Staff Member is Suspected to be Under the Influence of a Substance**

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 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 choice in this meeting.
- b. The Principal or designee shall present to the teaching staff member the report or information supporting the suspicion 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 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 include a substance 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** ~~A 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** ~~test~~ for substances.

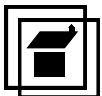
2. The **results of the** medical examination and substance test shall be used by the **Board** physician to determine if the teaching staff member is under the influence of any substance as defined in Policy 3218 and this Regulation. The substance test procedures will provide for a **confirmation** ~~confirming~~ test using acceptable confirmation test procedures.

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.**

In the event the results of the medical examination and substance test are not provided to the Superintendent, 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 position in the school district~~ **unless the Superintendent has a reason the teaching staff member should not be returned to their 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**.
 - (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 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 the time period required by the **Board** physician shall not be accepted and the teaching staff member shall be determined to have waived their right to a have **the results of a confirmation** ~~confirming-substance~~ test considered by the ~~physician~~.



c. After completing the requirements in 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 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 position in the school district **unless the Superintendent has a reason the teaching staff member should not be returned to their position.** ~~and.~~ ~~Any 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 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** ~~these results~~ to the Superintendent of Schools ~~and the support staff member will be required to meet with the Superintendent.~~

DC. Procedures to be Followed When a Teaching Staff Member is Determined to be Under the Influence of a 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 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 will be subject to appropriate discipline which may include, **but not be limited to:**
 - a. **Withholding an increment;**
 - b. **Terminating** ~~termination~~ of a non-tenured teaching staff member; **and/or**
 - c. ~~the~~ **F**iling of tenure charges for a tenured teaching staff member.

N.J.S.A. 2C:33-15 et seq.
N.J.S.A. 24:21-2 et seq.
42 C.F.R. II
34 CFR 85.600 et seq.
20 U.S.C.A. 1145g, 3224a
41 U.S.C.A. 701 et seq.

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