

# MARIJUANA LEGALIZATION AND SCHOOL POLICY:

**A Public Health Approach**



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# TABLE OF CONTENTS

<b>Introduction</b>	<b>3</b>
<b>01 Background</b>	<b>4</b>
History	4
Youth Use and Risks	5
Not Your Parents' Weed	6
Delta-8, Delta-10, THC-O	6
What Does Cannabis Look Like?	7
<b>02 Impact on School Policy</b>	<b>8</b>
What Has and Hasn't Changed?	8
Medical Card Exemptions	10
Response Protocol at a Glance: Student Suspected of Being Under the Influence	12
Key Considerations	13
Graceffo Case Study – Lesson to be Learned	17
Response Protocol at a Glance: Student Found in Possession of Marijuana	18
Staff Roles and Responsibility	19
Student Code of Conduct and Beyond	20
Protecting Student Privacy Rights	21
<b>03 Updating Your Policy</b>	<b>22</b>
Public Health Approach to School Policy: A Supportive Response	22
Guidance for “Best Practice” School Policy	23
Professional Development Staff Training	26
Evidence-Based Programs for Supporting Youth and Families	27
Working with External Partners	30
<b>04 Summary</b>	<b>33</b>
<b>05 Endnotes</b>	<b>34</b>
<b>06 Appendix</b>	<b>35</b>
A. Glossary	35
B. Legal Requirements on Prevention, Identification and Immediate Response	36
C. Common Scenarios Officials May Face	38
D. Frequently Asked Questions on New Cannabis Laws and School Policy	44



## Introduction

In 2021, New Jersey (NJ) legalized the sale, possession, and consumption of cannabis for adults over 21 years of age. Though now legal for adults, use of the substance still presents health and safety risks and consequences, especially for those under 21. Schools and communities should have clear knowledge of these risks in order to create policies that promote health and safety, and support their students and school communities, while complying with the law.

The new legislation has generated new questions and concerns, such as how to address issues concerning possession and use of marijuana by students in our public schools, when school officials may/must act, and the role of law enforcement in the context of addressing these issues in the school setting. This toolkit has been created to assist districts and staff in understanding the new landscape of youth substance misuse in light of cannabis legalization.

*Please note that information in this document does not replace the need for attorney review and guidance. Please contact your board attorney for legal advice with respect to the legislation and its implementation in your district.*

### READER'S NOTES:

The NJ laws and the Attorney General's Office make a distinction in terminology between cannabis, which is the substance sold by licensed cannabis businesses legally to those 21 and older, and marijuana, which is the drug purchased outside of the regulated market or used by those under 21. This document refers to "youth marijuana use", which remains illegal. As such, it will primarily be referred to as "marijuana".

Addiction is a medical condition that is chronic but treatable. However, the way people talk about addiction can often perpetuate stigma, which may prevent individuals with a substance use disorder (SUD) from seeking treatment. To reduce this harmful stigma, it is important to use language that is neutral and avoids negative or shameful connotations. Therefore, this document will replace stigmatizing language, such as "abuse," even when it appears in quotes or comes from an external source. When referring to youth use of a substance before the legal age or misuse of a substance, we will use the terms "substance use/misuse" instead of "substance abuse."

## History

In 1987, New Jersey legislature set the stage for schools to support youth that were experiencing challenges due to substance use with the enactment of P.L. 1987, c.387 (codified as NJSA 18 A: 40A-1, et. seq.). This Act established the requirement for “a comprehensive substance use/misuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district.” While the legislation has been amended since then, certain terminology and best practices responses have changed, and new trends in substance use have emerged, the core elements and guidance that frame these requirements remain the same and highlight the importance of ensuring youth experiencing a substance use disorder or beginning to experiment with the use of substances must be identified and supported rather than simply being punished.

Given the significant overlap and complex relationship between student mental health and substance use, it is critical for all school officials to understand the legal framework, best practices and emerging trends related to student substance use prevention, identification, and response. Over the past three and a half decades, New Jersey has taken a strong leadership role in the nation on this issue. All New Jersey school districts are now required to have in place a comprehensive program that addresses the prevention, identification, immediate response (including referral for immediate medical examination pursuant to N.J.S.A. 18A:40A-12) and ongoing response (intervention, referral for evaluation, referral for treatment, and continuity of care) for students involved in alcohol, tobacco, or other substance use. See N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-3.1.

Given the potential for student poly-substance use, it is important that school officials be aware of another change in state law that occurred, effective December 1, 2018. Board policy is required for emergency administration of an opioid antidote (Narcan/naloxone) to students, staff or others.

The law requires all New Jersey schools with any of grades 9 – 12 to obtain a standing order from the school physician for these antidotes and to maintain a supply in a secure, unlocked, easily accessible location. The Board of Education is charged with determining quantities and types of antidotes in consultation with NJDOE and NJDOH.

School officials must make the opioid antidote accessible during the school day, at school-sponsored functions, on school grounds, and optionally off of school grounds. The school nurse has the primary responsibility for overseeing implementation of this law. Volunteer employee designees need to be trained on standard protocols. If opioid antidotes are administered, the person must be transported immediately to the emergency room after administration of the antidote.

The law provides for indemnity from liability for anyone involved in administering opioid antidotes pursuant to this law. School districts may enter shared service arrangements with schools and/or municipalities to assist with addressing implementation of this law. With the many risks associated with youth marijuana use, schools should follow the regulations established by the state in providing information, education, and supportive services.

For additional help navigating the many aspects surrounding student mental health and wellness, please see the New Jersey Department of Education’s [Mental Health Resource Guide](#).



## Youth Use and Risks

As New Jersey has followed the path of similar states in legalizing cannabis for adult use, there remains a need for accountability and focused consideration surrounding youth use. From a public health and prevention standpoint, it is critical that our school districts have appropriate policies and best practices in place to address the evolving youth marijuana use landscape and its associated health and safety risks.

As more states continue to pass legalization bills, we are seeing a significant decrease in the public's perception of the harm associated with cannabis use, and youth use has risen [1]. It is important that families, schools, and adolescents understand the potential negative impacts of youth marijuana use as society adapts to a new normal of retail cannabis business growth continues across the US.

Recent data suggests 30% of those who currently use marijuana may already have some degree of marijuana use disorder, while those who use marijuana before the age of 18 are four to seven times more likely to develop a marijuana use disorder than adults [2].

» Additional studies indicate that marijuana use during adolescence, a sensitive and critical period of development, can result in adverse neurocognitive effects that can last well into adulthood.

Adolescent marijuana users often exhibit signs of cognitive impairment when compared to baseline measures of attention, memory, executive function, inhibition, visual processing and processing speed, along with decreased full-scale IQ and verbal IQ.

There is a significant association between adolescent marijuana use and anxiety, depression, bipolar disorder, psychosis, and schizophrenia [3]. Among youth with psychotic disorders, marijuana use directly correlates with increased hospitalizations, poorer medical adherence, and a far greater risk for relapse to psychosis [4].

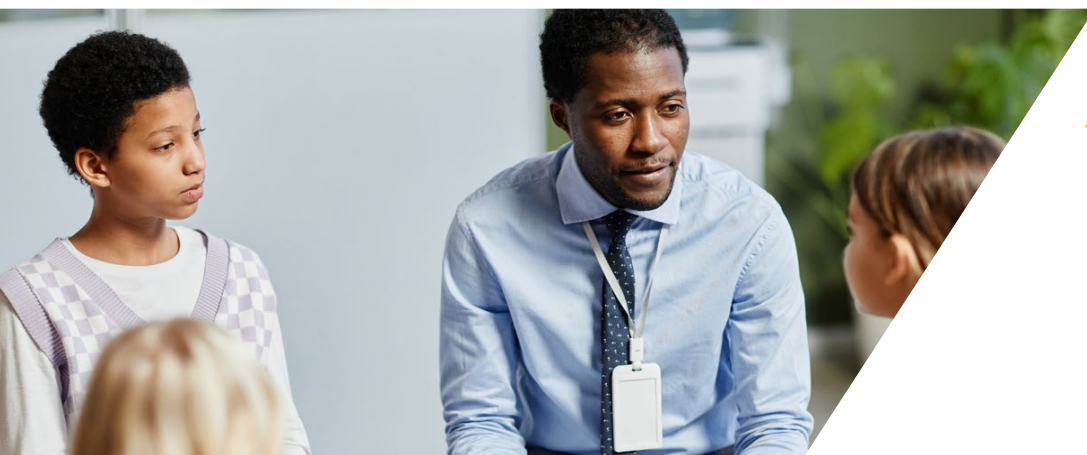
Perhaps most concerning, the likelihood of suicide incidents in which toxicology results were positive for marijuana has more than doubled since states began legalizing cannabis use, from 14% in 2013 to 29% in 2020.



### Covid Impact

As with many other aspects of society, Covid-19 has had a myriad of negative impacts on education, public health, and the mental and physical health of all sectors of the community. This is especially true for our youth, who have experienced unprecedented isolation and stress while trying to navigate complicated social issues with the rapid integration of technology such as social media into our collective everyday lives.

In the wake of the pandemic, US high school students saw a stark rise in mental health issues, which can be exacerbated by substance use while increasing the likelihood of developing a substance use disorder. With more than a third of high school students reporting poor mental health during the Covid-19 pandemic, the need for supportive policy has only grown more necessary as children and adolescents return to their classrooms [5].



## Not Your Parents' Weed

The way cannabis is harvested, manufactured, and consumed has evolved in recent years, with products containing higher potency levels and available in new ways to ingest in the form of edibles that sometimes mimic popular candy and snacks, vaping devices, or concentrates like waxes or “dabs”. It is critical that our youth--and the adults who guide them--understand that the tetrahydrocannabinol (THC) levels in cannabis products available today are significantly higher than in the past; THC in marijuana in the 1970's was about 3% versus nearly 15% in 2020. The THC levels in marijuana concentrates are even higher, with an average of 54% to 69%, with some exceeding 80% [6]. With the elevation of THC levels in vaporized and edible marijuana products, it is important to note that youth prefer to use these products over the traditional combustible method of consumption of past decades [7].



### THC levels in waxes or “dabs”

54% to 69%



Some exceed 80% >>

### Forms of Marijuana Administration

Marijuana can be consumed in several ways, the most common being:

- » Smoked in cigarette joints, blunts (cigars and tobacco wraps that have been filled with marijuana), or through bong and pipes.
- » Vaped through electronic devices, such as vape pens and e-cigarettes, or other vaporizers.
- » Ingested after being mixed into food or beverages, known as edibles, such as gummies, cookies, cakes, brownies, or beverages.
- » Another growing route of administration is the inhalation of THC extracts, also called “dabbing.” The oils used in vaping and dabbing involve highly concentrated forms of THC and may contain additives or be contaminated with other substances that carry additional harm to users.

## Delta-8, Delta-10, THC-O

Due to a loophole in the federal hemp farming bill, delta-8 and similar products like delta-10 and THC-O can be purchased legally in NJ and contain psychoactive ingredients that pose similar risks as cannabis products to its users. These items, which are not permitted by schools, are often sold as edibles in attractive packaging that can entice youth and can easily be ingested accidentally by someone unaware of its psychoactive properties.

Since these types of products are not evaluated or approved by the FDA, they are often manufactured with potentially unsafe household chemicals during the synthesization and coloring processes. Over 40% of calls to national poison

control centers about delta-8 products involved patients less than 18 years of age. Between January 2021 and February 2022, 40% of delta-8 poison control calls were the result of accidental exposure, with 82% of those cases being pediatric patients under 18 [8].

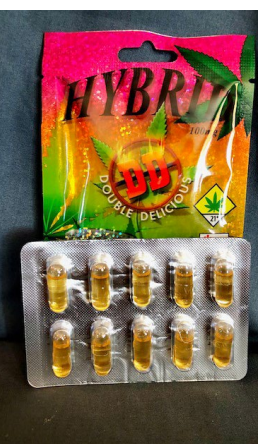
Not only are these items easily purchased at locations such as corner stores, grocery stores, and smoke shops, they are widely produced without any warning labels on the packaging, and since there are currently no laws prohibiting the sale of these items to minors, there is no regulation or procedure in place to prevent the sale of these products to minors [6].



# What Does Cannabis Look Like?

As the legal cannabis industry has evolved over the last decade, the new types of products mentioned throughout this toolkit come in increasingly diverse shapes and sizes, with many edible and vape options especially being marketing with colorful product design and eye-catching packaging.

Below you will find images of both packaging and products of the common types of cannabis items that are available for purchase at most dispensaries, including dried flower bud, edibles, vaporized oil, and tinctures.





### What Has and Hasn't Changed?

The legalization of cannabis in New Jersey has created new questions and concerns regarding school policy and the relationship between faculty, staff, and administrators with law enforcement. Your school's current methods of addressing marijuana use, much like alcohol and tobacco, should remain in place as all three substances are illegal for use in New Jersey for those under the age of 21. Because of the risks associated with these substances, schools should continue to implement a strict no-use policy, accompanied by a supportive response to youth that are found to be using marijuana, alcohol, or tobacco found to be using marijuana, alcohol, tobacco, or any other substances..

Nothing in the new laws prohibits a school from taking disciplinary action unless there is a medical exemption pursuant to N.J.S.A. 18A:40-12.22. While the new law decriminalizes adult possession of 6oz or less of marijuana and its use, schools can still prohibit the possession and or use

of marijuana on school premises or at school events and can still impose administrative penalties. Also, schools maintain the right to ensure that students are not under the influence at school and to act when they violate the student code of conduct. In these instances, schools should continue to follow their stated required response protocol (See more on this in the section below.)

A note on student athletes: Schools maintain the right to bar students who have non-prescribed drugs found in their system from participating in athletic activities. In addition, the New Jersey State Interscholastic Athletic Association lists alcohol and cannabinoids as banned substances subjecting athletes to disqualification.



## >> Change in Law Enforcement's Role

The role of local law enforcement, including school resource officers (SROs), is limited by the new cannabis legislation. Law enforcement officers are no longer permitted to search a person for suspected possession alone. Also, law enforcement officers may no longer request "consent to search" from students under the age of 18, because minors are not deemed capable of providing consent. While law enforcement officers including SROs need probable cause to search a student, their locker, etc., school officials only need reasonable suspicion which is a lesser standard.

School officials should continue to follow provisions in the existing Memorandum of Agreement (MOA) between education and law enforcement officials related

to addressing student substance use and reporting procedures to law enforcement. The MOA should establish proper procedure for handling marijuana products and should be updated to reflect the new legislation regarding the appropriate transfer to law enforcement.

Situations in which students are found to be in possession of less than 6oz of marijuana should be handled following the MOA guidelines and treated as a non-criminal offense with limited punitive measures, such as a written warning, pursuant to NJSA 2C:3315. However, if a student is found to be in possession of over 6oz of marijuana, it is a fourth-degree crime and can still be charged under NJSA 2C:35-10(a)(3)(b).

### Updating the Memorandum of Agreement

Each year, school district leaders and local law enforcement are required to review the Memorandum of Agreement (MOA) between education and law enforcement, assess how well schools and law enforcement are working together, and sign an updated agreement. It is important that these discussions include a review of the impact of marijuana legalization on student substance use, and that the parties explore ways to appropriately share information consistent with current law.

It is anticipated that a revised version of the MOA will be released at some point during the 2022-23 school year, which may provide additional guidance on how education and law enforcement can effectively work together in light of the changing legal landscape.

MOA Website: <https://nj.gov/education/safety/sandp/schoolsafety/moa.shtml>



## Medical Card Exemptions

Due to the Jake Honig Compassionate Use Medical Cannabis Act, schools should have policies in place in the event a student in their district possesses a medical cannabis card, which allows for the medicinal use of cannabis products to treat any number of ailments when prescribed by a physician.

Students of any age that are authorized to use medical cannabis are not permitted, by law, to self-administer their medication on school grounds, on a school bus, or at school-sponsored activities. For a student to receive their medication, a primary caregiver must be assigned to administer the prescribed medical marijuana on school property or at school-sanctioned events.

Medical cannabis can be prescribed for any qualifying condition, including:

- » Seizure disorder, including epilepsy
- » Intractable skeletal muscular spasticity
- » Post-traumatic stress disorder
- » Glaucoma
- » Positive status for human immunodeficiency virus or acquired immune deficiency syndrome
- » Cancer
- » Amyotrophic lateral sclerosis
- » Multiple sclerosis
- » Muscular dystrophy
- » Inflammatory bowel disease, including Crohn's disease
- » Terminal illness, if the patient has a prognosis of less than 12 months of life
- » Anxiety
- » Migraines
- » Tourette's syndrome
- » Dysmenorrhea
- » Chronic pain
- » Opioid use disorder
- » Any other medical condition or its treatment that is approved by the commission



## >> Medical Cannabis Use by Students

Under New Jersey law, every school district is required to have a policy authorizing the medical use of cannabis by students under certain conditions (See N.J.S.A. 18A:40-12.22). If a student qualifies for such use, the parent, guardian, or a designated caregiver must be permitted to administer medical cannabis to the student while at school, on school grounds, or at a school sponsored event, subject to verification by the district of the student's eligibility and after the development of a plan for administration in consultation with the district. If a student is using medical cannabis, either during, before, or after school, the student may exhibit certain signs of being under the influence.

It is essential that school officials, including the school physician, school nurse, and school administration, work closely with the parent or guardian and the student's treating physician to develop a plan of action to avoid unnecessary referrals of that student for immediate medical examination, pursuant to N.J.S.A. 18A:40A-12. As part of that planning process, all parties need to understand the provisions in the code of student conduct and other school district health and safety protocols that must be followed by the student while in school, on school grounds, or at a school function.

All parties need to agree that while using medical cannabis the student is expected to adhere to all such requirements. In addition, the parties should reach a common understanding on the signs that may be exhibited by the student after having been administered medical cannabis that could otherwise be mistakenly interpreted

by a staff member as signs that the student may be under the influence of alcohol or other controlled dangerous substances. The parties need to reach a common understanding that a student who is authorized to receive medical cannabis cannot possess or use marijuana on their own.

Finally, the parent/guardian and student need to understand that there may still be situations where that student must be sent out for an immediate medical examination. For example, if that student is exhibiting signs other than those agreed upon by the parties, or school officials have reason to believe that the student has consumed alcohol or other controlled dangerous substances, that student must be sent out for an immediate medical examination, notwithstanding that the student is authorized to receive medical cannabis.

The parties should recognize that the interactive process outlined above may involve some trial and error, but hopefully will lead to a more nuanced and accurate understanding over time about the impact of medical cannabis use on that student, since no two individuals will respond precisely the same way, and even the dosage levels provided to that student may be adjusted over time.

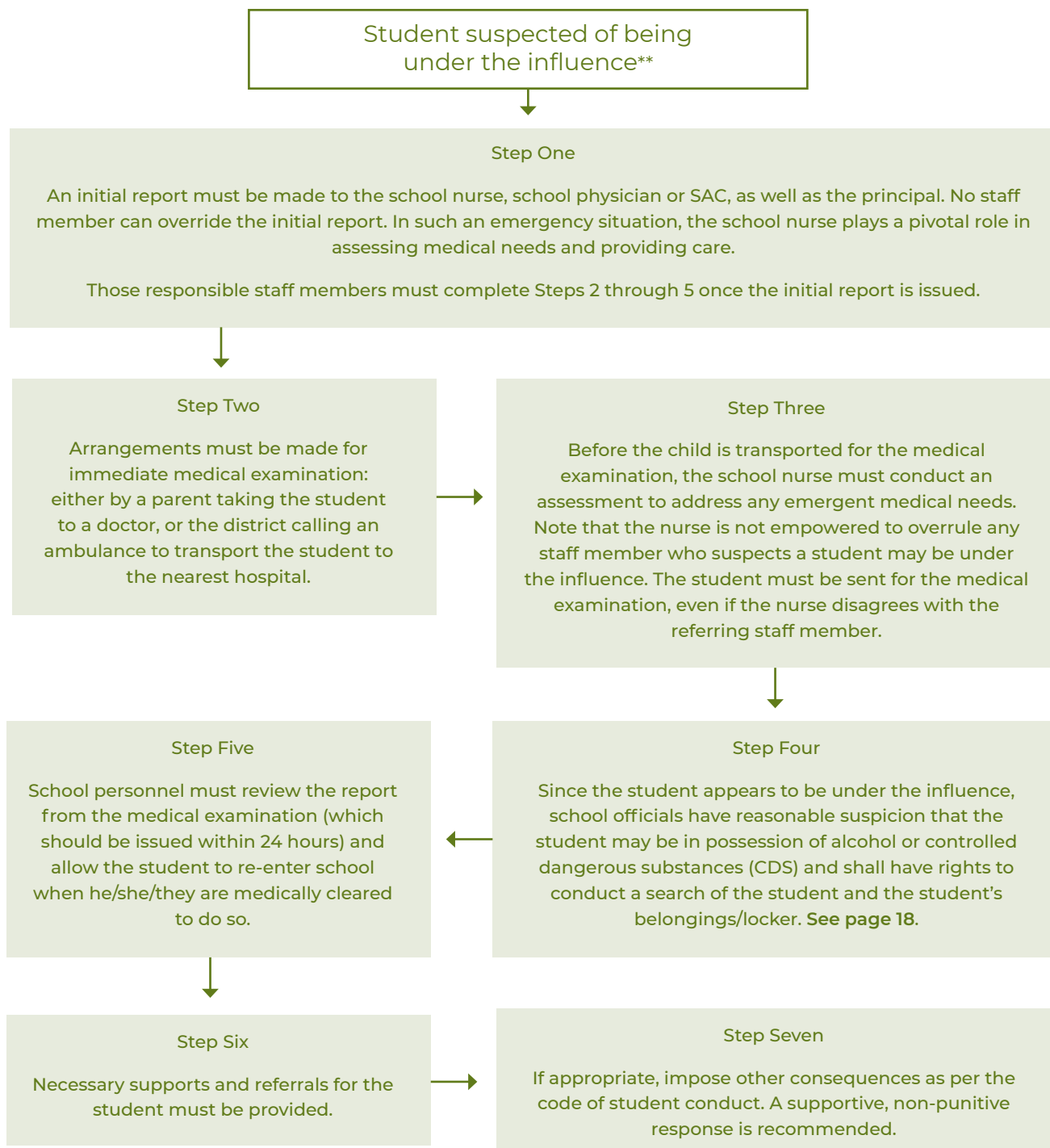


# Response Protocol at a Glance

All school districts must have a comprehensive, evidence-based prevention plan in place that is aligned with New Jersey's Student Learning Standards, as well as annual in-service training on key substance use and misuse issues for all school staff. (See NJSA 18A:40A-2 and 3) Districts must also provide ongoing education to parents on the pharmacology,

physiology, psychosocial, and legal aspects of substance use. (See NJSA 18A:40A-16 and 17)

School districts must follow a specific protocol to ensure students are taken for immediate medical examination if there is a reason to believe that they are under the influence.



\*\*See Key Considerations on following page for more detail.

# Key Considerations

When there is reason to suspect a student is under the influence of alcohol or a controlled substance, it is essential that every stakeholder understands the urgency of the situation, the process for ensuring that the student's immediate medical needs are addressed, and the steps that must be followed in the aftermath of such an identification to address the underlying causes of the student's substance use. Listed below are key considerations regarding the various aspects of the required response protocols under N.J.S.A. 18A:40A-12.

	Key Questions	Suggested Considerations
<p><i>Identification and Immediate Reporting of Students Suspected of Being Under the Influence</i></p>	<p>1A. Is there a reluctance among staff to report students suspected of being under the influence due to fear of backlash or litigation?</p>	<p>1A. Educate staff about liability protections for making good faith reports and establish protocols to shield staff from parental backlash, including security protocols for parents on school grounds.</p>
	<p>1B. Are staff members reporting suspected students to the correct school officials and in a timely manner?</p>	<p>1B. Educate staff on who they should report suspected under the influence to (school nurse OR SAC and principal) and review procedures for covering a class or other assignment to allow for immediate reporting.</p>
	<p>1C. Are staff members clearly identifying the signs/symptoms that they have observed?</p>	<p>1C. Review the content and delivery method for annual staff training on identifying the signs that a student may be under the influence</p>
	<p>1D. Are staff members able to accurately assess whether a student is under the influence as evidenced by the medical examination results coming back and other relevant data (students not being reported until later in the day despite evidencing similar signs earlier)?</p>	<p>1D. If you identify many students who test negative when sent for a medical examination, it is important to debrief with the referring staff member or members making inaccurate referrals to clarify the signs or symptoms observed and attempt to determine the cause for the misperception and provide additional training as needed.</p>
	<p>1E. Is known information that could increase the accuracy of reporting being shared with appropriate staff members?</p>	<p>1E. Students may manifest signs or symptoms that could be confused with being under the influence. For example, if a student is known to be working late at a part-time job, that may explain them appearing to be sleepy in class. Sharing that information with a teacher may reduce unnecessary referrals. Medically, a student may have allergies, or may be undergoing chemotherapy or other treatment that may impact their appearance or behavior. While teachers, counselors or other staff will not have reason to know that student's medical condition or medications being taken, certain information may be shared under state and federal law if the staff member has a legitimate educational interest in receiving that information. This may include sharing information about outward signs of appearance or behavior that may be exhibited by a student, so they are not misread as signs of being under the influence. Determining what information should be shared should involve the school principal, parent, the child's physician, school physician and school nurse.</p>

**Immediate Medical Examination**

**Key Questions**

2A. Does your school district policy require that a student suspected of being under the influence be seen by a doctor within a short time, such as 2 hours?

2B. When students are transported to the local hospital, are they being seen in a timely manner?

**Suggested Considerations**

2A. Clarifying this will require a revision to board policy but is crucial to ensuring that medical examinations are not unnecessarily delayed.

2B. If this is an issue, it may be necessary for the superintendent or other high-level administrator to meet with hospital officials to review the statutory mandate and ensure that students are medically examined in a timely manner.

**Parental/Student Cooperation**

3A. Are parents delaying the process of taking their child for a medical examination or refusing to allow their child to be taken for an immediate medical examination?

3B. Are students refusing to consent to a medical examination?

3A. Review with parents the requirement to assume a student has tested positive if the parent delays or prevents the medical examination AND review with parents the need to contact the Division of Child Protection and Permanency and law enforcement and report suspected child neglect if the parent delays or prevents the medical examination.

3B. Review with students that refusal or delay in consenting to a medical exam will be considered a positive result and that the refusal is also a violation of the Code of Student Conduct and can result in disciplinary consequences. examined in a timely manner.

**Drug Testing as Part of Medical Examination**

4A. Does your district policy specifically mandate specific drug testing requirements for a student sent for a medical examination?

4B. Are specific drug testing requirements clearly communicated to the treating medical doctor by the school district?

4C. Are specific drug testing requirements clearly communicated to the parent?

4A. Review your policy with key stakeholders and the board to ensure that all relevant drug testing requirements are included.

4B. Ensure that school officials provide information to the nearest hospital on the district's drug testing requirements.

4C. Parents need clear notice of the specific requirements included in the district's medical examination policy, including the specific drug testing requirements.

*Application to Remote Students*

**Key Questions**

5A. Have you adapted your protocols to address students suspected of being under the influence during remote participation in school or school activities?

5B. Have you incorporated training on the protocols for addressing students who are suspected of being under the influence during remote participation?

5C. Have you communicated the remote participation protocols to parents and students?

5D. Have you worked with emergency responders and law enforcement to review protocols that may be required to arrange an immediate medical examination for a remote student?

**Suggested Considerations**

5A. The protocol for responding to students in the remote setting needs to include confirming that the parent can take the child for an immediate medical exam. If not, then an ambulance needs to be sent to the student's home. The school nurse should remain in contact with the student while awaiting the arrival of the ambulance to provide ongoing assessment of the student's medical needs.

5B. The remote participation scenario requires different protocols and therefore revised training for all staff.

5C. Parents and students should receive clear written notice of how schools will respond when students are suspected of being under the influence while remote.

5D. School officials should proactively work with emergency responders and law enforcement so that protocols are set before an emergency arises. These protocols should be included in the MOA between education and law enforcement.

*Follow Up After Testing Positive*

6A. Is there scheduled ongoing follow-up with a student identified as having a substance use issue?

6A. After a student is confirmed to have been under the influence at school, the school district is on notice that the student has a potential substance use issue and is required to take reasonable steps to support the student. The districts need to make sure there is timely follow-up with the student and that such students do not "fall through the cracks".

*Return to School Following Positive Test Result*

7A. Do school leaders and other staff understand the requirements related to a student's return to school after having been determined to be under the influence?

7A. A student who was sent out for suspicion of being under the influence must be allowed to return to school in those cases where a doctor's note is not provided within 24 hours, or where the note indicates that the student is fit to return, barring any potential disciplinary action that may be imposed for a violation of the code of student conduct.



*Effective Discipline*

**Key Questions**

8A. Does your code of student conduct include automatic out-of-school suspension for students determined to be under the influence? If so, what are the potential negative consequences for students with potential substance use issues who may now be unsupervised and disengaged from school support services for multiple days?

8B. What alternatives to suspension are currently being utilized and how can your district build on those practices?

**Suggested Considerations**

8A. Districts should consider alternative consequences whenever possible that avoid out-of-school suspensions, for a variety of reasons, including the potential for students who may have substance use issues to now be unsupervised and away from the many supports available in the school environment.

8B. A variety of promising alternative responses may be more effective than out-of-school suspension. Refer to [Evidence-Based Programs for Supporting Youth and Families section of this toolkit \(See page 27.\)](#)

*Involving Law Enforcement*

9A. Are school officials properly protecting the confidentiality of information learned from students voluntarily participating in a comprehensive drug and alcohol counseling program, including information regarding illegal activity involving the student or family members?

9A. It is important for all school officials to know and understand the MOA between education and law enforcement. Districts have the option to report to law enforcement whenever a student is sent out due to suspicion of being under the influence. However, such reporting is not mandated, and it is important to consider the potential negative consequences of students being driven towards the school-to-prison pipeline. In addition, it is not required to report to law enforcement each time a student is found in possession of an electronic nicotine delivery system or vape, unless school officials have specific reason to believe it is being used for a controlled, dangerous substance.

# Graceffo Case Study – Lesson to be Learned

## A CASE STUDY

This case, decided in 2000, provides an important cautionary tale related to how school districts respond to students suspected of being under the influence. In this case, a Vice Principal, Joseph Graceffo, was made aware of a student, N.L., who a teacher suspected was under the influence of marijuana on two consecutive days. After consulting with the school nurse on each occasion, the Vice Principal decided not to send the student out for a medical examination. The Vice Principal followed the district's established protocol by making this decision in consultation with the school nurse and then informing the parent of the decision. Two weeks after the second report, the student, N.L., died of a drug overdose. The district then decided to bring tenure charges against the Vice Principal.

The tenure charges alleged that the Vice Principal had violated state law by failing to arrange for an immediate medical examination. Ultimately, the Commissioner of Education upheld the tenure charges, ruling that despite the district's established practice, the vice principal should have known that state law required that the student be sent out for an immediate medical examination. The penalty imposed was a permanent loss of a salary increment for the Vice Principal.

As part of the case, the district further alleged that the Vice Principal had mishandled four prior incidents between 1991 and 1996. The Commissioner of Education held that the Vice Principal had mishandled two of the four incidents. In one case, in 1995, the Vice Principal did not arrange for a student to be sent for a medical examination until the day after the report was received that a staff member suspected a student was under the influence. In another case, in 1996, the Vice Principal received the report in the morning, but did not arrange for the student to be sent for a medical examination until several hours later, in the afternoon. In both cases, the Commissioner held that the Vice Principal failed to arrange for an immediate medical examination. An alleged incident from 1994 was dismissed for lack of evidence.

One final incident, from 1991, was found to have been properly handled by the Vice Principal. In that case, a student was seen angrily leaving a meeting in the Vice Principal's office and knocking items off a counter in the front office. A staff member witnessing the incident reported a suspicion that the student was under the influence. The Vice Principal, who was aware that the student had become angry upon learning that he was receiving disciplinary action for a code of student conduct violation, decided not to send the student out for a medical examination, since there were no other signs reported, in addition to the student's expression of anger, that the student may be under the influence, and the Vice Principal already had information that explained why the student was angry. The Commissioner held that the Vice Principal acted reasonably given the circumstances and the additional information that was available to the Vice Principal that reasonably explained the student's behavior.

# Response Protocol at a Glance

Student found in possession of marijuana

## Step One

Determine if the student appears to be under the influence. If the student appears to be manifesting any physical signs of being under the influence to any school staff member, the student must be sent for an immediate medical examination and all steps on [page 12](#) must be followed. Review district policy to determine if an immediate medical examination is required, even if the student is not exhibiting physical signs of being under the influence. *Note that many school district policies will require that the student be sent out for a medical examination any time the student is found in possession of alcohol, marijuana or other CDS, regardless of whether or not the student is personally exhibiting signs of being under the influence.*

## Step Two

Follow district protocol related to conducting a search of the student and student belongings. Note that, where there is reasonable suspicion to search a student related to suspected possession of CDS, school officials may also search the student's belongs (e.g., purse, backpack), the student's locker and, in cases where the student vehicle is parked on school premises, the student's vehicle. See [Uniform State Memorandum of Agreement Between Education and Law Enforcement \(MOA\)](#) for guidance on how to conduct student searches.

## Step Three

School officials must seize and secure items where there is reasonable suspicion that the item is marijuana or another CDS. School officials must maintain a detailed log of seized items and place them in a locked, secure location. Law enforcement must then be immediately notified. All suspected marijuana and/or other CDS must be turned over to law enforcement.

However, as per the MOA, any electronic nicotine delivery system or vape is not to be turned over to law enforcement, unless school officials have specific evidence that the vape contains marijuana. Such evidence may include, for example, a student admission, statements from other students, or simultaneous possession of a vape and marijuana.

NOTE: For any subsequent offenses, follow your district's Code of Student Conduct. See section titled *A Public Health Approach for School District Policy* for considerations on effective responses.

# Staff Roles and Responsibility



## School Administrators

Ensure the development and implementation of policies and protocols, adequacy of staff training, effectiveness of curriculum, and possess an understanding of emerging prevention trends.



## Student Assistance Coordinator (SAC)

A legally required position, key to properly supporting the requirement to provide a comprehensive prevention, intervention, and referral-to-treatment program. SACs, or the district designee, must have strong knowledge of both addiction and prevention best practices, and should shoulder the responsibility or support administration in providing proper supportive responses to students in need.



## School Nurse

Will receive initial report of suspected substance use to identify and address any immediate health needs; not to “assess” if the suspicion is accurate. Students must go for immediate medical examination if any staff member reports they are possibly under the influence.



## School Resource Officer (SRO)/Law Enforcement

Responsible for information sharing under MOA. This includes reporting possible substance use issues related to students so that schools are aware and can respond with proper support. SROs should adhere to all rules established for law enforcement.

School officials should not involve SROs in:

- » Searching students related to suspected marijuana use/possession.
- » Interviewing students related to marijuana possession and potential intent to distribute.
- » Advising school officials on when or how to conduct specific investigations.



# Student Code of Conduct and Beyond

## >> Code of Conduct Update

As classrooms evolved during the pandemic and remote learning played a larger role in our education system, it is important to clarify codes of student conduct regarding traditional classroom settings and extracurricular activities also apply when students are participating remotely, whether it is off school grounds or at their residence. This includes, but is not limited to:

- » Possession of and/or using alcohol or any controlled dangerous substances, including marijuana
- » Possession of and/or using any electronic nicotine delivery system or other marijuana products
- » Targeting other students in order to ostracize, demean, threaten or otherwise harass, intimidate or bully such students for having used or being perceived as having used ENDS, other marijuana products, alcohol and/or any other controlled dangerous substance



# Protecting Student Privacy Rights

State and federal law place a strong emphasis on maintaining confidentiality to the greatest extent possible, to encourage students to seek support and open up about the extent and nature of their involvement in substance use. Specifically, information obtained from students who are voluntarily participating in a comprehensive drug and alcohol counseling program is protected from disclosure under 42 CFR Part 2 and N.J.A.C. 6A:16-3.2, with certain exceptions. This includes maintaining the confidentiality of information related to a student's personal substance use and that of family members or others in the household. There are strong provisions in place for addressing improper disclosures including fines up to \$500 for a first offense and up to \$5,000 for each subsequent offense. See N.J.S.A. 18A:40A-7.2.

Exceptions that would require disclosure include:

- » When a student is reasonably suspected to be involved or implicated in drug-distribution activities, which requires the chief school administrator or designee to disclose to law enforcement, see N.J.A.C. 6A:16-6.3(a)3, see also N.J.A.C. 6A:16-4.1(c)9.
- » When a student may be the victim of child abuse or neglect, which requires disclosure to the Division of Child Protection and Permanency and notice to local law enforcement pursuant to N.J.S.A. 18A:40A-7.1(b)4 and N.J.A.C. 6A:11.1.
- » When a student is suspected of being under the influence, which requires notification of the principal and other select school officials and the arranging of an immediate medical examination, but does not require notification of law enforcement (such notice to law enforcement is optional depending on local district policy)
- » When a student indicates an intent to harm self or others and that indication is evaluated to be a valid safety threat. In cases where there is a credible threat that a student intends to cause death, serious bodily injury or significant bodily injury to another person, law enforcement must be notified. See N.J.A.C. 6A:16-6.3(c).

Consideration of student privacy rights should always be at the forefront of reporting practices, especially regarding law enforcement. Staff should be fully trained on all confidentiality requirements before engaging in progressive discipline. Oftentimes, staff members who are responsible for breaches of privacy are acting in good faith, while not fully understanding the confidentiality policy in place.

The following questions can help to identify staff members who may be responsible for breaches, determine the cause, and engage in appropriate progressive supervision:

- » Have there been any previous breaches of confidentiality at the school for students engaged in substance use?
- » Is training on confidentiality requirements provided for all:
  - » Staff
  - » Administrators
  - » SACs
  - » Other staff involved in the comprehensive drug and alcohol counseling program
  - » Staff with educational services certificate

It is advised that regular meetings are arranged between the district's superintendent, high-level school administrators, and any appropriate law enforcement officials to review agreements regarding information sharing, and resolve any discrepancies. The serious financial and disciplinary consequences school officials may face for inappropriate breaches of confidentiality should also be conveyed to law enforcement officials when deliberating information sharing guidelines with student privacy in mind.

## Public Health Approach to School Policy: A Supportive Response

Given that we typically see youth usage rise as public perception of risk or harm goes down, we can reasonably expect adolescent marijuana use rates will go up with the legalization of cannabis products in NJ. With youth usage rates already high, with 67% of the 6,000 substance-related incidents recorded in the Student Safety and Discipline in New Jersey Public Schools Report being related to marijuana, schools need to be proactive in its policymaking and implementation to keep up with use trends as we enter this new territory.

Because youth marijuana use carries the weight of so many negative health impacts and increases the likelihood of further substance use/misuse into adulthood, it is critical that school policies reflect current evidence-based substance use prevention and treatment methods to limit the progression of addiction and reduce the negative health, social, and economic impacts of adolescent marijuana use.

Research conducted by the American Society of Addiction Medicine has identified several prevalent risk and protective factors that are predictive of substance use and are susceptible to prevention interventions, and the resources for educators and clinicians to effectively prevent adolescent marijuana use and mitigate CUD-related harm already exist.

### Positive Alternatives to Suspension: Restorative Justice Activities (RJA)

In the past, schools have typically centered their marijuana policies around punitive approaches, such as suspension and a hand-off to local law enforcement. These types of policies have proven to be detrimental to overall prevention efforts, while disproportionately impacting marginalized groups, such as people of color or low-income communities. Incorporating policies that have harm reduction in mind, schools can be an influence of positive environmental change in NJ regarding substance use/misuse.

Youth behavior is often the symptom of deeper issues and should be met with prevention techniques such as education, skill building, and supportive services. Restorative Justice Activities (RJA), created to provide activities to improve socio-emotional and behavioral responses during recess, can be used as an appropriate substitute for out-of-school and in-school suspension to create a more supportive and inclusive school culture for those who need it most.

When implemented in good faith, RJA's can support schools and districts in applying effective policies and procedures for positive student development and behavioral expectations according to their codes of conduct.



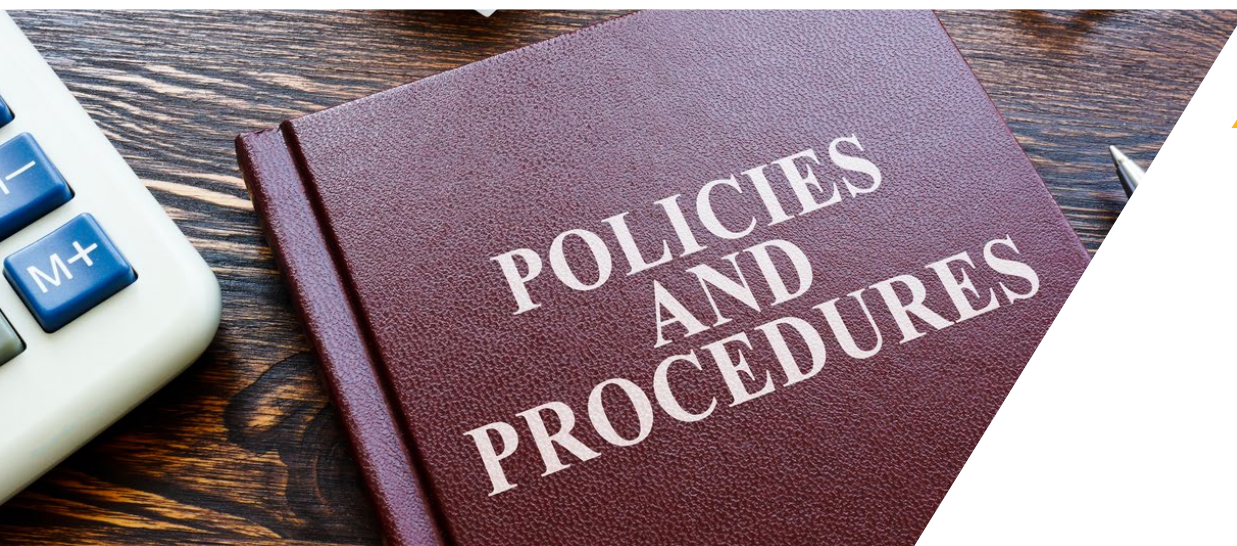


## Guidance for “Best Practice” School Policy

Science has guided the field of addiction, and there are several points that should be highlighted to guide schools’ responses to supporting youth with effective prevention, intervention, and referral to treatment services.

Stakeholders should consider the following guiding principles when developing a school policy regarding student marijuana possession and use:

- » Include a comprehensive definition of “marijuana products” and “marijuana delivery systems” that covers current and future products.
- » Focus on universal, selected, indicated interventions within the policy to include educational components and cessation opportunities.
- » To the extent that suspension is considered as a consequence, consider an alternative in-school suspension program that incorporates education and access to cessation programs, either online or by designated staff.
- » Understand and comply with New Jersey Smoke-Free Air Act, NJSA 26:3D-55, et seq.
- » Understand and comply with relevant school district requirements related to suspected use of controlled dangerous substances, smoking, use of vaporizers and other marijuana products.
- » Rethink and adapt current policies and protocols to reflect new realities, including the pandemic and its aftermath.
- » It should be noted that school districts are also required to have in place policies allowing for the administration of medical cannabis. See PL 2015, c.158. [9]





## >> Questions When Reviewing Your Policy

### Key Questions

#### Prevention

1A. Are you seeing increases over time in students determined to be under the influence of specific substances? Do your trends mirror or deviate from national trends?

1B. Are you collecting data on the number of students voluntarily seeking to participate in your comprehensive drug and alcohol counseling program? If so, what trends are you seeing?

1C. Do you have a process for updating your health curriculum on a regular basis to address emerging trends in substance use?

1D. To what extent are parents engaged in training programs related to substance use and their role in working with the school district to support their child?

#### Identification and Immediate Response

2A. To what extent is your school district effectively implementing the required protocols for students suspected of being under the influence? (See separate set of questions related to implementing N.J.S.A. 18A:40A-12)

#### Ongoing Response

3A. Have you identified available community agencies and resources to support students dealing with substance abuse issues?

3B. How successful are you in gaining parental consent to receive protected health information from outside agencies working with a student?

### Best Practice Response

1A and 1B. Data from multiple sources should be analyzed, including test results from students sent out for immediate medical examinations, reports to the NJDOE under the Student Safety Data System, and information collected from SAC, counselors and other staff involved in the comprehensive drug and alcohol counseling programs on trends they are seeing from students who are participating. Education, outreach, and student supervision should then be adjusted based on the trends that are observed.

1C. Bring in subject matter experts on emerging substance use trends to review and assist in updating the curriculum, and work with relevant staff, students, and parents to ensure the curriculum is relevant, timely and effective.

1D. Explore alternative means of getting information to parents beyond one-shot evening conferences that are often not well attended. Identify school events that already have a large turnout and incorporate information into such events. Explore use of district social media channels to reach other parents.

2A. Review the guiding questions in the separate table above to identify any components of your district protocols that need to be addressed.

3A School leaders should assess available community resources related to prevention, treatment, and continuity of care, and review additional resources available through the NJDOE.

3B Educate parents on the significant benefits to their child if you can have access to health information to support the student more effectively. Stress that the additional information gained will not be used in a punitive manner.

**Key Questions**

**Confidentiality**

4A. Have there been any breaches of confidentiality at the school for students engaged in substance use?

4B. Is training on confidentiality requirements provided for all staff? For administrators? For SACs? For other staff involved in the comprehensive drug and alcohol counseling program?

For all staff with the educational services certificate?

4C. Have there been conflicts between school officials and law enforcement regarding confidentiality requirements and when disclosure must be made, may be made, and cannot be made?

**Roles and Responsibilities**

5A. Do you have a SAC in place or other qualified person coordinating your school’s substance abuse prevention, intervention, and response program?

5B. Are there any barriers that impede the coordination of programs and services?

5C. Is the role of the school nurse properly understood?

5D. For students with disabilities who also have substance use issues, is the IEP Team working effectively with the SAC (or designee) and others to address the student’s needs?

5E. For students with behavioral, health or academic difficulties being addressed by the I & RS Team, is the I & RS Team working effectively with the SAC (or designee) and others to address the student’s needs?

5F. For students being addressed simultaneously by multiple teams/programs (I & RS, IEP, 504, Substance use) are there effective systems in place for information sharing, communication and coordination?

**Best Practice Response**

4A and 4B Identify those staff members who may have been responsible for such breaches, determine the cause, and engage in appropriate progressive supervision. In many cases staff members may have been acting with good intentions and not fully understood confidentiality requirements. Prior to engaging in progressive discipline, ensure that all staff have been fully trained on confidentiality requirements.

4C Arrange for regular meetings between superintendent and other high level school administrators and the appropriate high level law enforcement officials to review and work through any disagreements regarding information sharing. Ensure that law enforcement officials understand the serious financial and disciplinary consequences school officials may face for inappropriate breaches of confidentiality.

5A. Ensure that each school has a central “point person” for coordinating the district’s program and provide ongoing professional development support for that person.

5B. Ensure leadership teams work together to regularly identify and address any internal barriers - policies, procedures, staffing, professional development - that may be impeding coordination.

5C. Review the statutory responsibilities of the school nurse with all staff and remind staff that every staff member has responsibilities to identify students who may be under the influence and the nurse cannot assume that role in lieu of other staff.

5D, 5E and 5F. Provide common planning time for the SAC, and members of the IEP Team, 504 Committee and I & RS Team to work together to ensure a coordinated approach is in place for specific students.

## Professional Development Staff Training

It is required by law that all school staff receive annual in-service training on key substance use issues. In addition, incoming educators who have not worked previously in an academic setting receive similar pre-service training (See: NJSA 18:40A-3, 7.1, and 15). Districts must also provide ongoing education to parents on the harms associated with substance use, including the legal ramifications. (See: NJSA 18A:40A-16 and 17).

The annual staff training should include instructions on how to identify and respond to students who appear to be under the influence. Key warning signs of student use include\*:

- » Smell of alcohol, marijuana, or strong chemical
- » Dilated, red, or unusual eye appearance
- » Appears disoriented or confused
- » Poor hygiene
- » Excessive sleeping, inability to arouse
- » Slurred speech
- » Loss of muscular coordination
- » Hyperactive
- » Unexplained happiness, giddiness, laughing
- » Hyper-anxious
- » Excessive indulgence in food

*\*Although these are common signs to look for, keep in mind that some of these presenting on their own may be indicative of other circumstances than substance use.*



# Evidence-Based Programs for Supporting Youth and Families

The following are a selection of evidence-based programs that support school communities, youth and families in reducing risks and enhancing protective factors to prevent harms related to substance use and addiction.

Evidence-Based Program	Description	Target Population	Risk & Protective Factors
Botvin Lifeskills	Botvin LifeSkills Training (LST) is an evidence-based substance abuse and violence prevention program that is uniquely designed to be flexible and interactive. The program can be taught either on an intensive schedule (two to three times a week) or on a more extended schedule (once a week) until the program is complete.	Elementary, Middle, & High School students	Self-management, social skills, and drug resistance skills
Footprints for Life	Footprints for Life is a research-based primary prevention program that builds assets and teaches important life skills to students, through the use of puppets and stories that feature “real life” situations and experiences by a children’s soccer team.	2nd or 3rd Grades	Social competency skills, awareness of harms to health, adaption of prosocial attitudes and behaviors
Strengthening Families	Aims to reduce behavior problems and substance use by enhancing parenting skills, parent-child relationships, and family communication. Parents and youth attend weekly group sessions lasting two hours for 7-15 weeks, depending on the child’s age. Each session includes a separate, concurrent one-hour parent and youth skills-building session followed by a one-hour family session.	Children aged 3-5 years (15 weeks), 6-11 years (14 weeks), 12-16 years (14 weeks), 10-14 years (7 weeks), and their families	Family communication, conflict, and cohesion

Evidence-Based Program	Description	Target Population	Risk & Protective Factors
We're Not Buying It 2.0	A substance use prevention program that focuses on developing media literacy skills. Uses prevention education strategies to reduce early first use of alcohol, marijuana, and prescription and over-the-counter medications, as well as bullying behavior.	6th - 8th Grade	Perception of drug risk, drug use expectancies, positive social and self-image
Youth Mental Health First Aid	Youth Mental Health First Aid teaches you how to identify, understand and respond to signs of mental illness and substance use disorders in youth. This 6-hour training gives adults who work with youth the skills they need to reach out and provide initial support to children and adolescents who may be developing a mental health or substance use problem and help connect them to the appropriate care.	Ages 6-18	Anxiety, depression, psychosis, eating disorders, substance use disorders
School Resiliency Teams	School teams will connect with the latest research on how the brain reacts to stress, and how stress affects our student's behavior and their ability to focus and learn. This training will focus on the Three Pillars Framework which are the core characteristics of social environments that promote healing and growth. They are based on the three central trauma-related needs: safety, connection, and coping. The training is for the district adversity teams who will be tasked to learn this material and provide the training to all school district personnel that have contact with the students in the school district.	School Administrator, teachers, counselors, child study team members, school resource officers, nurses, I & RS teams, a school administrator must be a member of the team.	Toxic stress, adversity, trauma informed care, creating resilient environments

Evidence-Based Program	Description	Target Population	Risk & Protective Factors
Nurtured Heart Approach	The Nurtured Heart Approach is a relationship-focused methodology founded strategically in the 3 Stands™ for helping children (and adults) build their inner wealth and use their intensity in successful ways. It has become a powerful way of awakening the inherent greatness in all children while facilitating parenting and classroom success.	Children and adults	Social, behavior, and academic challenges; promoting inner wealth
Olweus Bullying Prevention Program	A universal, three-tiered school-based program. (1) School-wide professional development and increased supervision of bullying “hot spots” (2) Establishment and enforcement of class rules against bullying; and (3) Interventions with children identified as bullies and victims, and discussions with parents of involved students.	Middle schools and adolescents (13-16)	Classroom management; disruptive classroom behaviors; academic and behavioral problems

In addition to those listed here, there are compendia of evidence-based and promising practices and programs, for example “Blueprints for Healthy Youth Development” at <https://www.blueprintsprograms.org> and the *Pew Charitable Trust Results First Clearinghouse Database* at <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2015/results-first-clearinghouse-database>.

For more information on evidence-based programs, see *Effective Prevention in New Jersey: A Community Guide to Reducing Youth Substance Use* at [www.njpn.org/prevention-resources](http://www.njpn.org/prevention-resources).



# Working with External Partners

The following list, while not exhaustive, provides examples of agencies and programs that can support schools in implementing policies with a public health approach.

- » **New Jersey Prevention Network (NJPN)** develops and promotes evidence-based prevention resources, working through local agencies and regional coalitions in every NJ county. These coalitions work within their communities and schools to improve policies and provide evidence-based prevention services to support educators and administrators with implementing comprehensive programs to address youth substance use. They are also experts in addiction and provide training on signs & symptoms for school personnel. [www.njpn.org](http://www.njpn.org) | [www.njpn.org/regional-prevention-coalitions](http://www.njpn.org/regional-prevention-coalitions)
- » **NJ Prevention Hub** a statewide system of provider agencies that will as local connectors to substance use prevention programs and resources available in each New Jersey county. The Prevention Hub provides professionals with evidence-based prevention education, interventions, strategies, and programs and connects them to additional resources that are available in each county as needed. For more information and to find your county's hub, visit [www.njpreventionhub.org](http://www.njpreventionhub.org)

Prevention Hub by County:

### Atlantic County

Atlantic Prevention Resources Agency  
626 N. Shore Rd.  
Absecon, NJ 08201  
Phone: 609-272-0101  
Website: [atlprev.org](http://atlprev.org)  
Prevention Hub:  
[atlprev.org/preventionhub](http://atlprev.org/preventionhub)

### Cape May County

Cape Assist  
3819 New Jersey Avenue  
Wildwood, NJ 08260  
Phone: 609-522-5960  
Website: [www.capeassist.org](http://www.capeassist.org)  
Prevention Hub:  
[capeassist.org/preventionhub](http://capeassist.org/preventionhub)

### Hudson County

Partners in Prevention  
110B Meadowlands Pkwy Suite 302  
Secaucus, NJ 07094  
Phone: 201-552-2264  
Website: [pipnj.org](http://pipnj.org)  
Prevention Hub:  
[pipnj.org/hudson-county-resources/](http://pipnj.org/hudson-county-resources/)

### Bergen County

Children's Aid and Family Services  
22-08 Rt 208 South  
Fair Lawn, NJ 07410  
Phone: 201-225-8848  
Website: <https://www.tcadr.org/>  
Prevention Hub: [bergencoalition.org](http://bergencoalition.org)

### Cumberland County

The Southwest Council  
1405 N. Delsea Drive  
Vineland, NJ 08360  
Phone: 856-794-1011  
Website: [www.southwestcouncil.org](http://www.southwestcouncil.org)  
Prevention Hub: [southwestcouncil.org/hub](http://southwestcouncil.org/hub)

### Hunterdon County

Prevention Resources, Inc.  
4 Walter Foran Blvd. Suite 410  
Flemington, NJ 08822  
Phone: 908-782-3909  
Website: [www.njprevent.com](http://www.njprevent.com)  
Prevention Hub:  
[njprevent.com/preventionhub](http://njprevent.com/preventionhub)

### Burlington County

Prevention Plus of Burlington County, Inc.  
5000 Sagemore Dr. Suite 203  
Marlton, NJ 08053  
Phone: 609-261-0001  
Website: <https://www.prevplus.org>  
Prevention Hub: [prevplus.org/burlicohub](http://prevplus.org/burlicohub)

### Essex County

Family Connections  
7 Glenwood Avenue, Suite 101  
East Orange, NJ 07017  
Phone: 973-675-3817  
Website: [www.familyconnectionsnj.org](http://www.familyconnectionsnj.org)  
Prevention Hub:  
[familyconnectionsnj.org/adapt/preventionhub/](http://familyconnectionsnj.org/adapt/preventionhub/)

### Mercer County

Mercer Council/Prevention Coalition  
1931 Brunswick Ave  
Lawrence Township, NJ 08648  
Phone: 609-396-5874  
Website: [www.mercercouncil.org](http://www.mercercouncil.org)  
Prevention Hub: [mercercouncil.org/hub](http://mercercouncil.org/hub)

### Camden County

Camden County Council on Alcoholism & Drug Abuse, Inc. 1 Alpha Avenue, Suite 22, Voorhees, NJ 08043  
Phone: 856-427-6553  
Website: [www.cccada.org](http://www.cccada.org)  
Prevention Hub:  
[cccada.org/preventionhub](http://cccada.org/preventionhub)

### Gloucester County

The Southwest Council  
550 Bridgeton Pike, Suite 2, 3, & 4  
Mantua, NJ 08051  
Phone: 856-794-1011  
Website: [www.southwestcouncil.org](http://www.southwestcouncil.org)  
Prevention Hub: [southwestcouncil.org/hub](http://southwestcouncil.org/hub)

### Middlesex County

Wellspring Center for Prevention  
620 Cranbury Road Suite 105  
East Brunswick, NJ 08816  
Phone: 732-254-3344  
Website: [www.wellspringprevention.org](http://www.wellspringprevention.org)  
Prevention Hub: [wellspringprevention.org/our-programs/prevention-hub](http://wellspringprevention.org/our-programs/prevention-hub)

**Monmouth County**

Prevention First, a division of Preferred Behavioral Health Group  
185 Highway 36, Building B, Suite B20  
West Long Branch, NJ 07764  
Phone: 732-663-1800  
Website: [www.preferredbehavioral.org/](http://www.preferredbehavioral.org/)  
Prevention Hub: [pcofmc.org/resources](http://pcofmc.org/resources)

**Morris County**

Prevention is Key  
25 West Main Street  
Rockaway, NJ  
Phone: 973-625-1998  
Website: [www.preventioniskey.org](http://www.preventioniskey.org)  
Prevention Hub: [preventioniskey.org/preventionhub](http://preventioniskey.org/preventionhub)

**Ocean County**

Institute for Prevention and Recovery\*  
442 Route 35, 3rd Floor  
Eatontown, NJ 07724  
Phone: 833-233-4377  
Website: [rwjbh.org/preventionandrecovery](http://rwjbh.org/preventionandrecovery)  
Prevention Hub: [rwjbh.org/preventionhub](http://rwjbh.org/preventionhub)

*\*Offers 504 and Intervention & Referral Services Team Training to School Districts. This training outlines how teams best determine the eligibility and criteria for collecting student information, developing action plans and providing the necessary accommodations to further enhance successful outcomes for general education students.*

**Passaic County**

United for Prevention in Passaic County  
University Hall 364, 300 Pompton Road  
Wayne, NJ 07470  
Phone: 973-720-3146  
Website: [www.up-in-pc.org](http://www.up-in-pc.org)  
Prevention Hub: [up-in-pc.org/prevention-hub](http://up-in-pc.org/prevention-hub)

**Salem County**

The Southwest Council  
Salem County One Stop Center  
180 East Broadway  
Salem, NJ 08079  
Phone: 856-794-1011  
Website: [www.southwestcouncil.org](http://www.southwestcouncil.org)  
Prevention Hub: [southwestcouncil.org/hub](http://southwestcouncil.org/hub)

**Somerset County**

EmPoWER Somerset  
50 Division St, Suite 302  
Somerville, NJ 08876  
Phone: 908-722-4900  
Website: [www.empowersomerset.com](http://www.empowersomerset.com)  
Prevention Hub: [empowersomerset.com/preventionhub](http://empowersomerset.com/preventionhub)

**Sussex County**

Center for Prevention and Counseling  
61 Spring Street  
Newton, NJ 07860  
Phone: 973-383-4787  
Website: [www.centerforprevention.org](http://www.centerforprevention.org)  
Prevention Hub: [centerforprevention.org/prevention-services/](http://centerforprevention.org/prevention-services/)

**Union County**

Prevention Links  
121-125 Chestnut St  
Roselle, NJ 07203  
Phone: 732-381-4100  
Website: [preventionlinks.org](http://preventionlinks.org)  
Prevention Hub: [preventionlinks.org/prevention-hub/](http://preventionlinks.org/prevention-hub/)

**Warren County**

Family Guidance Center of Warren County-Prevention Connections  
492 Route 57 West  
Washington, NJ 07882  
Phone: 908-689-1000  
Website: [fgcwc.org](http://fgcwc.org)  
Prevention Hub: [preventionconnections.fgcwc.org/prevention-hub](http://preventionconnections.fgcwc.org/prevention-hub)

- » **Tobacco-Free for a Healthy NJ** also hosted by NJPN, provides resources for schools including a Policy Toolkit, Don't Get Vaped In education program, ASPIRE Program, Incorruptible.us Youth Tobacco Action Groups, cessation services and quit centers, and more. <https://www.tobaccofreenj.com/youth-tobacco-action-groups>
- » **LEGAL ONE** is the leading provider of education law workshops, online courses, and webinars for school leaders and teachers on critical legal issues in NJ. <http://njpsa.org/legalonenj>
- » **Foundation for Educational Administration (FEA)** is an independent non-profit founded in 1985 to provide professional learning for the 8,800 members of the NJPSA. FEA is recognized for providing high quality professional learning to educators to improve student achievement throughout New Jersey. Its mission is to promote sustained professional growth, support research-based practices, and enhance learning for teachers and leaders for the purpose of equity and continuous school improvement.
- » **New Jersey Principals and Supervisors Association (NJPSA)** is a membership services organization dedicated to the promotion of educational excellence through the ongoing support of New Jersey's school leaders via government advocacy, legal assistance, leadership programs, professional learning and retirement counseling.

- » **Association of Student Assistance Professionals of NJ (ASAP)** defines Student Assistance programs as a comprehensive framework for the delivery of K- 12 universal, targeted prevention/intervention strategies and programs. Student Assistance services are designed to address risk factors, promote protective factors, and increase overall success. Student Assistance Programs address barriers to learning that impact the individual student to increase student success while improving school climate. Student Assistance Programs partner with parents, students, school resource officers, other school faculty, community coalitions, agencies and services in seeking to remove barriers that impede student success.” <https://asapnj.org>
- » **New Jersey School Counselor Association** represents professional school counseling in New Jersey. <https://www.njsca.org>
- » **NJ State School Nurses Association** seeks to improve health and educational outcomes for children and youth by building the capacity of school nurses to promote school and community wellness and deliver high-quality healthcare in the school setting. <https://www.njssna.org/home>
- » Governor’s Council on Alcohol and Drug Abuse (GCADA) manages a statewide system of municipal alliances providing prevention planning, public awareness and education, and administers the Alliance to Prevent Alcohol and Drug Abuse Program. <https://nj.gov/treasury/gcada/home>
- » **NJ Recovery High Schools:**
  - » Raymond Lesniak Recovery High School, Union County  
<https://preventionlinks.org/recovery-support/recovery-high-school>
  - » Coastal Preparatory Recovery High School, Cape May County serving South Jersey  
<https://coastalprehighschool.com/about-us>
  - » KEYS Academy Recovery High School, Monmouth County  
<https://www.marsd.org/domain/1164>
- » **180’s 2nd Floor Youth Helpline**  
2NDFLOOR is accredited by the American Association of Suicidology and is a confidential and anonymous phone and text helpline which is available 24 hours, 7 days a week to New Jersey youth and young adults. 2NDFLOOR’s phone number to call or text is 888.222.2228. <https://180nj.org/180s-2nd-floor-youth-helpline>



## 04 SUMMARY

The legalization of cannabis for adult use in New Jersey has created concern for school administration and staff in determining how this new state policy effects the current policies of school districts. This toolkit was created as a guide for schools to understand which policy areas can stay the same and which need to be updated or changed. We have provided guidance and recommendations throughout this document to look at these issues through a public health lens.

LEGAL ONE co-authored this publication to cover the legal requirements and policies that schools must follow. The New Jersey Prevention Network and other prevention professionals' collaboration allows for best practices in prevention science to be wrapped around these requirements. We have provided local and state resources for schools to access, experts to assist in supporting students and questions and answer sections to help translate best practice. We have included details as up to date as possible in this ever-developing landscape and have created an easy-to-read format.

As the commercialization of cannabis expands in New Jersey and across a growing number of states, educators, administrators, and school staff must remain up to date on the effective tools at their disposal for preventing youth marijuana use as well as approaching scenarios that may arise as we see a potential uptick in adolescent consumption of these products.

With the immediate and future health risks that students face if they are experimenting with marijuana, it is also critical to move away from the ineffective punitive response to student substance use, opting for a more constructive and educational approach while identifying their need for supportive services.

We hope this publication provides guidance to school administrators to create policy and practice that prepares staff to educate and support youth.



The NJ Prevention Hub is a statewide system of provider agencies that serve as a local connector to substance use prevention programs and resources available in each New Jersey county. The Prevention Hub provides professionals with evidence-based prevention education, interventions, strategies, and programs to support all sectors of the community, including youth, parents, schools, law enforcement, faith-based organizations, etc. as well as connecting them to additional prevention resources that are available in each county as needed.

As the need for substance use prevention programs in New Jersey continues to increase, the Prevention Hub has been built to guide community leaders to supportive services and resources available across NJ's 21 counties. For NJ students to thrive in a safe and healthy environment, communities must address the numerous risk factors that affect our youth, families, and the schools that serve them so that we can collectively reduce early use of alcohol and other drugs, typically the first step on a path to addiction.

Visit the statewide Prevention Hub home page at [www.njpreventionhub.org](http://www.njpreventionhub.org)

<sup>1</sup>[https://publications.aap.org/pediatrics/article/145/Supplement\\_2/S165/34451/Marijuana-Legalization-and-Youth?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000](https://publications.aap.org/pediatrics/article/145/Supplement_2/S165/34451/Marijuana-Legalization-and-Youth?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000)

<sup>2</sup><https://nida.nih.gov/publications/research-reports/marijuana/marijuana-addictive>

<sup>3</sup><https://nida.nih.gov/publications/research-reports/marijuana/there-link-between-marijuana-use-psychiatric-disorders>

<sup>4</sup><https://pubmed.ncbi.nlm.nih.gov/32026735/>

<sup>5</sup><https://www.cdc.gov/media/releases/2022/p0331-youth-mental-health-covid-19.html>

<sup>6</sup><https://nida.nih.gov/publications/drugfacts/cannabis-marijuana-concentrates#ref>

<sup>7</sup><https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:5e9b19cf-c83d-31d0-bc6e-e8e9e6a743c2>

<sup>8</sup>[https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc?mc\\_cid=4a8cd89604&mc\\_eid=5b61604e1a](https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc?mc_cid=4a8cd89604&mc_eid=5b61604e1a)

## A. Glossary

**Cannabis:** Refers to all products derived from the plant *Cannabis Sativa*. In New Jersey, cannabis refers to products purchased legally by adults over the age of 21 from local dispensaries, in amounts under six ounces.

**Marijuana:** Refers to parts of or products from the plant *Cannabis Sativa* that contain substantial amounts of THC. In New Jersey, marijuana is used to describe products containing THC sold on the black market, or cannabis products used and possessed by those under 21.

**THC (Tetrahydrocannabinol):** The chemical found in cannabis/marijuana products that have psychoactive properties that alter a user's state of mind.

**CBD (Cannabidiol):** A single compound in the cannabis plant which does not have the psychoactive properties of THC and is the second most prevalent cannabinoid in cannabis, after THC.

**Delta 8 & Delta 10:** Psychoactive substances manufactured from hemp-derived CBD, often sold legally at convenience stores in NJ due to a loophole in the 2018 Farm bill.

**Synthetic cannabinoids:** Often referred to as Spice and K2, are man-made chemicals not actually synthesized from cannabis leaves. They are often sprayed on dried plant material that can be smoked or sold as liquids for use in vaping devices, mimicking the psychoactive feelings produced by ingesting marijuana.

**Forms of Marijuana Administration:** Marijuana can be consumed in several ways, the most common being:

- » Smoked in cigarette joints, blunts (cigars and tobacco wraps that have been filled with marijuana), or through bong and pipes.
- » Vaped through electronic devices, such as vape pens and e-cigarettes, or other vaporizers.
- » Ingested after being mixed into food or beverages, known as edibles, such as cookies, cakes, brownies, tea, cola, and alcohol.
- » Another growing route of administration is the inhalation of THC extracts, also called "dabbing." The oils used in vaping and dabbing involve highly concentrated forms of THC and may contain additives or be contaminated with other substances that carry additional harm to users.

**Administrator:** Any person who has disciplinary and managerial authority to enforce school policies and penalties in a school, including but not limited to principals, vice-principals, and office personnel.

**Any time:** During normal school and non-school hours; 24 hours a day, seven days a week, 365 days a year.

**Off-campus, school-sponsored event:** Any event sponsored by the school or school district that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances, or theatrical productions.

**Parent/Guardian:** Any person that has legal guardian status over a student enrolled in a school.

**Remote participation:** Any period during which the student is engaged in synchronous classroom activities or other school sponsored activities from a remote location, including but not limited to the student's home.

**School-sponsored activities:** Includes, but not limited to, school-sanctioned athletics, school-sanctioned clubs, and other school-sanctioned extracurricular activities.

**School:** Any public nursery, daycare center, childcare facility, Head Start program, kindergarten, elementary school, secondary school, alternative learning center, or adult education center operated under the control of a school district.

**School property:** All facilities and property, including land, whether owned, rented, or leased by a school district, and all vehicles owned, leased, rented, contracted for, or controlled by a school district used for transporting students, staff, or visitors.

**Smoking:** inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or any other lighted or heated marijuana, tobacco, or other product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette that creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

**Staff:** Any person employed by a school district as full- or part-time, or any position contracted for or otherwise employed, with direct or indirect monetary wages or profits paid by a school district or anyone working on a volunteer basis. This term includes, but is not limited to faculty, service personnel, volunteers, chaperones, and others working for the school district.

**Student:** Any person enrolled in a school or school district's educational system.

**Visitor:** Any person subject to school policy that is not a student, staff, or administrator as defined above.



## B. Legal Requirements on Prevention, Identification, Immediate Response

On the prevention front, all school districts must have in place a comprehensive, evidence-based curriculum aligned with the New Jersey Student Learning Standards. See N.J.S.A. 18A:40A-2. In addition, all school staff must receive annual in-service training on key substance use issues, see N.J.S.A. 18A:40A-3 and 40A-15, and all aspiring teachers must receive pre-service training on such issues. See N.J.S.A. 18A:40A-7.1. Finally, districts must provide ongoing education to parents on the pharmacology, physiology, psychosocial and legal aspects of substance use. See N.J.S.A. 18A:40A-16 and 17.

On the identification and immediate response front, all school staff and parents must be trained annually on the signs and symptoms which might indicate student substance use. In addition, school districts must follow a specific protocol to ensure that students are taken for an immediate medical examination any time there is reason to believe that a student may be under the influence. See N.J.S.A. 18A:40A-12. This protocol, in its simplest form, includes the following steps:

- » initial reporting (to the school nurse or school physician or student assistance coordinator AND to the school principal)
- » arranging for immediate medical examination, which may be done by the parent immediately coming to the school and taking the child to a doctor OR by the school district arranging for an ambulance to take the child to the nearest hospital
- » ensuring that while waiting for the child to be transported to the medical examination that an immediate assessment is done by the school nurse to address any emergent medical needs (note that the nurse is not empowered to overrule any other staff member who suspects a student may be under the influence and the student must still be sent for an immediate medical examination even if the school nurse disagrees with the referring staff member)
- » receiving the report back from the medical examination (supposed to be within 24 hours) and allowing student reentry to school when the student is medically cleared to do so
- » providing ongoing supports and referrals for the student, as necessary
- » imposing other consequences, as per the code of student conduct

### **N.J.S.A. 18A:40A-1 through 20**

Governing how public schools respond to issues of substance use by students, including:

- » Curriculum and Instruction (18A: 40A-1 and 2)
- » In-Service and Pre-Service (18A:40A-3 and 4)
- » Evaluation of program (18A:40A-6)
- » Confidentiality (18A:40A-7)
- » Comprehensive program (18A:40A-10)
- » Policies (18A:40A-11)
- » Addressing Students Suspected of Being Under the Influence) 18A:40A-12)
- » Liability protections (18A:40A-13 and 14)
- » In-service, Parent Education, Outreach (18A:40A-15 through 17)
- » Student Assistance Coordinator (18A:40A-18)
- » Random Drug Testing (18A:40A-22 through 25)

**N.J.A.C. 6A:16, Subchapter 3**

Comprehensive Alcohol, Tobacco and Other Substance Abuse Programs, including:

- » Required elements
- » Confidentiality

**N.J.A.C. 6A:16, Subchapter 4**

Procedures for Alcohol and Other Drug Abuse Intervention

**N.J.A.C. 6A:16, Subchapter 6**

Involvement of Law Enforcement

**N.J.A.C. 6A:16, Subchapter 8**

Intervention and Referral Services

**N.J.A.C. 6A:14**

Special Education

**FERPA, CFR Part 2 and 20 U.S.C. 1232g and N.J.S.A. 18A:40A-7.**

Provisions governing confidentiality of student records generally, student health records, and records of those involved in a school-based drug and alcohol counseling program

**Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act**

Providing protections for those with drug or alcohol addiction as an impairment under certain limited circumstances, as those with past addiction

## C. Common Scenarios School Officials May Face

### Scenario 1

A student is walking down the hallway and a small bag of what appears to be marijuana falls out of their pocket.

#### Scenario Response:

- » In this scenario, school officials:
  - » will be justified in searching the student,
  - » will be required to turn the suspected marijuana over to law enforcement; and
  - » will need to assess whether the student is exhibiting signs of being under the influence, and if so, arrange for the student to be sent out for an immediate medical examination.
- » The legal standard for a school official to search a student is reasonable suspicion that the student has violated some provision of the code of student conduct or other school policy. This is different from a search by law enforcement, which requires probable cause that the target of the search has committed a crime. It is important to note that a School Resource Officer is a representative of law enforcement, and as such any search must satisfy the probable cause standard and is also likely to trigger other Constitutionally protected due process rights for the parent or guardian of that child. Whether a search is conducted by school officials or law enforcement, it must be reasonable in scope.
- » In this scenario, a school official would be justified in searching the student, the student's belongings (e.g., purse, bookbag, etc.), the student's locker and potentially the student's vehicle (if the student's vehicle was on school grounds). That is because the possession of marijuana in school is a violation of required local policies in all school districts. Where a student has been found to be in possession of what appears to be marijuana or other drug paraphernalia, it is reasonable to believe that the student may be in possession of additional quantities of marijuana in other locations controlled by the student.
- » Once school officials have seized what appears to be marijuana, it must ensure that it secures the product in a controlled location and promptly arranges for law enforcement to take control of the product.
- » Where a student is found to have been in possession of what appears to be marijuana, school officials should also engage in due diligence by assessing whether or not the student is exhibiting any physical signs of being under the influence. If any staff member indicates a belief that a student may be under the influence and is able to articulate the sign or signs justifying that belief, the district must then arrange for the student to be sent out for an immediate medical examination. If a parent or guardian is able to promptly come to the school and take the child for that medical examination that must take place. Otherwise, the school district should contact emergency services to come and transport the student to the nearest emergency room to undergo a medical examination.
- » Under the current Memorandum of Agreement between education and law enforcement, the names of students known or suspected to have been in suspicion of marijuana possession/use on school grounds or at a school function must be disclosed to law enforcement, with the narrow exception that is discussed in Scenario 4.

See NJDOE School Search Manual; See also Uniform Memorandum of Agreement Between Education and Law Enforcement, See also N.J.S.A. 18A:40A-12.

## Scenario 2

While walking past a student at his/her desk, you smell marijuana. No marijuana was found on the student, and they do not appear to be under the influence.

### Scenario Response:

- » In this scenario, the larger societal context of the legalization of cannabis use for adults in the State of New Jersey should be considered. Since adult use of cannabis is now permissible, it is likely that a growing number of students may be in proximity of adults who are engaged in marijuana use. This will increase the likelihood that the smell of marijuana may be detected while near certain students. In such a case, a reasonable approach for school officials to take would be to assess whether or not the student is personally exhibiting any physical signs of being under the influence at that time. In this scenario, the student is not showing any signs of being under the influence; therefore, the school district would not be required to arrange for an immediate medical examination of the student under state law.

## Scenario 3

During lunch, a cafeteria aide suspects that a student is passing out marijuana edibles.

### Scenario Response:

- » In this scenario, immediate action needs to be taken to address the possibility of active, ongoing distribution and ingestion of suspected marijuana edibles. This includes immediate seizure of the edibles in question by the cafeteria aid or other onsite school official, and identification and assessment of all students known or suspected of being in possession of or having ingested such edibles, to determine if any students are in need of immediate medical assistance.
- » School officials should arrange for the immediate medical examination of any students known to or suspected of having ingested food items that are suspected of being marijuana edibles. In addition, the items in question should be placed in a secure location until they are turned over to law enforcement, which should occur promptly.
- » In this scenario, school officials would also have reasonable suspicion to search students involved in the possession and/or distribution of edibles, and to search in other locations under the control of the students in question, as outlined in the response to Scenario 1. In addition, in questioning the original group of students, school officials may learn about other students who may have been in possession of or ingested marijuana edibles and will need to act accordingly with such additional students as outlined in this response.
- » The names of the students known or suspected to be involved in distribution of the edibles would need to be disclosed to law enforcement. Depending on the quantities involved, an offense involving distribution of marijuana could still result in potential criminal charges for the students involved in that distribution.
- » Under the current Memorandum of Agreement Between Education and Law Enforcement, the names of students known or suspected to have been in suspicion of marijuana possession/use on school grounds, or at a school function, must be disclosed to law enforcement, with the narrow exception that is discussed in Scenario 4.

## Scenario 4

A student is sent to the nurse's office for sleeping in class. While in the nurse's office, the student admits that he/she has a substance use problem and would like to seek treatment. During the conversation with the nurse, the student voluntarily turns over two vapes and says that both were used for marijuana.

### Scenario Response:

- » In this scenario, additional information is needed to determine the appropriate response. If there is another explanation for the student sleeping in class (e.g., student was up late online) and the student is not currently exhibiting any other signs of being under the influence (e.g., no dilated pupils, no slurring of speech, no other forms of erratic behavior), there would not be a requirement to send the student out for an immediate medical examination. In addition, the self-referral that the student has made would not, in and of itself, provide reasonable suspicion to search the student or his belongings.
- » The self-referral does put the school district on notice that the student may be in need of ongoing supports and should prompt the school district to make the student aware of services available through the school district's comprehensive drug and alcohol counseling program, and available community resources.
- » As noted in prior scenarios, the suspected drug paraphernalia would need to be placed in a secured location and promptly turned over to law enforcement. Because the student voluntarily turned over the vapes, and was not the subject of an active investigation, the student's name would not be disclosed to law enforcement.
- » Finally, receiving such a self-referral would not trigger a required notice to the parent or guardian, and making such a notice would likely have a chilling effect on that student and others coming forward and seeking assistance in the future.

## Scenario 5

As a teacher walks down the hall, he/she finds a bag of suspected marijuana product on the floor.

### Scenario Response:

- » The teacher should immediately retrieve the bag and turn it over to school administration. As noted in prior scenarios, the suspected drug paraphernalia would need to be placed in a secured location and promptly turned over to law enforcement.
- » As part of the district's due diligence, reasonable efforts should be made to try to determine who disposed of the marijuana. For example, if there is school district security video footage that is available, it should be reviewed to see if it can provide any insight into how the bag ended up on the floor and who may have been involved.



## Scenario 6

Parent is caught smoking or vaping marijuana outside on school grounds during a school activity.

### Scenario Response:

- » Under the Smoke Free Air Act, the smoking of marijuana by students or adults is prohibited at all times on school grounds. In this scenario, school officials should attempt to seize the item in question and immediately contact law enforcement. A parent found to be actively smoking on school grounds could be subject to fines which may be imposed by a municipal court judge under the Smoke Free Air Act. In order to enforce the provisions in the Smoke Free Air Act, the school district would need to inform the local department of health about the infraction.
- » As noted in prior scenarios, the suspected drug paraphernalia would need to be placed in a secured location and promptly turned over to law enforcement.
- » If the parent appears to be under the influence, school officials should contact law enforcement and make other reasonable efforts to prevent the parent from operating a motor vehicle while at the school function. In addition, school officials should act to prevent any student from being transported by a parent or any other person who appears to be under the influence. This may require school officials to seek assistance from law enforcement.
- » The school district would have the right to impose additional consequences for the parent involved, such as suspension of the parent from the right to attend school functions for a designated period of time.

## Scenario 7

A parent shows up to pick up a student and the parent appears to be under the influence.

### Scenario Response:

- » If the parent appears to be under the influence, school officials should contact law enforcement and make other reasonable efforts to prevent the parent from operating a motor vehicle while on school grounds. In addition, school officials should act to prevent any student from being transported by a parent or any other person who appears to be under the influence. This may require school officials to seek assistance from law enforcement.
- » The school district would have the right to impose additional consequences for the parent involved, such as suspension of the parent from the right to attend school functions for a designated period of time.

## Scenario 8

Student posts on social media photos of them using marijuana.

### Scenario Response:

- » In this scenario, the social media post should alert school officials of the need to meet with the student and offer the student supportive services through the school district's comprehensive drug and alcohol counseling program. The parent or guardian should also be made aware of the post.
- » The posting of photos on social media, in and of itself, would not justify sending a student out for an immediate medical examination. However, it would be prudent for school officials to assess whether the student currently appears to be under the influence. If so, the district would need to arrange for the student to receive an immediate medical examination.
- » In addition, the social media post, in and of itself, would not be considered reasonable suspicion to search the student and areas under the student's control, unless the post included some indication that the student intended to bring marijuana to school or showed the student in possession of marijuana at school.
- » Finally, without a clear nexus to the school district (e.g., smoking on school grounds or at a school function), the posting cannot be used for disciplinary purposes such as suspension from school or suspension from participation in athletics or other extracurricular activities.

## Scenario 9

In the school's staff lounge, a staff member brags about being happy the law changed to permit adult use of cannabis and speaks about his use over the weekend.

### Scenario Response:

- » A school district cannot discipline a staff member for exercising his First Amendment Right to express support for a change in state law during that staff member's non-duty time in the staff lounge. It should be noted, however, that a teacher cannot use time in the classroom to express their own political views regarding marijuana legalization and is required to follow the district's curriculum.
- » Similarly, the district cannot discipline the staff member for exercising his right to use cannabis under the revised law. However, if the staff member's appearance or behavior provides reason to believe that the staff member is currently under the influence, a school district may have a local policy that requires the staff member to be sent out for an immediate medical examination. While regulations have not yet been developed to implement this provision of the law, employer's will be required under state law to employ a Workplace Impairment Recognition Expert who is properly trained and is able to document specific behaviors by the staff member to justify the assertion that the staff member was impaired while in the workplace. A positive drug test, showing THC in the employee's urine or blood, will not be sufficient to justify discipline of the employee.

## Scenario 10

A student has underlying health issues, and the parent claims that the student has been cleared by a doctor for medical marijuana use and is awaiting receipt of a medical marijuana card. The parent provides recreational Marijuana to the student as a stop-gap measure and allows the student to smoke the marijuana immediately before coming to school.

### Scenario Response:

- » Every public school district in New Jersey is required to have a local policy authorizing the use of medical cannabis (previously referred to as medical marijuana). With proper medical documentation, a student may be administered medical cannabis while in school or at a school function. The medical cannabis cannot be smoked or otherwise inhaled. The student cannot bring the medical cannabis to school. The nurse cannot administer the medical cannabis to the student. Rather, it must be administered by the parent or guardian or other responsible adult identified by the parent or guardian.
- » Official documentation of student need from a properly qualified medical professional is required, and a statement from a parent that a student is awaiting a medical marijuana card is not sufficient. Absent official documentation and compliance with other required steps to authorize the use of medical marijuana, a student is not permitted to use marijuana.
- » In those cases where the proper procedures have been followed to establish a student's need for medical cannabis, the school nurse and school physician should work with the student's family and doctors to monitor the impact of such cannabis use on the student's ability to safely and effectively function while in school. For example, an individualized assessment should be conducted of the student's ability to safely participate in physical education and athletics. In addition, if the student is unable to behave in accordance with the code of student conduct and/or is unable to function academically, adjustments may be needed to the student's medication.
- » Finally, even a student with a medical cannabis card could be required to be sent out for an immediate medical examination if the student is evincing signs of being under the influence other than those that have been identified by school officials in consultation with medical professionals working with that student.

## D. Frequently Asked Questions on New Cannabis Laws and School Policy

This guidance is being provided to the New Jersey Principals and Supervisors Association (NJPSA) and members from the NJPSA Legal Team: Robert Schwartz, Esq., John Farinella, Esq., and LEGAL ONE consultant John Worthington, Esq.

As you are aware, New Jersey recently passed legislation addressing the sale, possession, and consumption of THC-containing cannabis products. This legislation has generated questions and concerns, including how to address issues concerning possession and use of marijuana by students in our public schools, when school officials may/must act, and the role of law enforcement in the context of addressing these issues in the school setting.

What follows is guidance based on questions that we have posed with suggested answers. While the new laws distinguish between cannabis and marijuana, the terms will be used interchangeably in this Q & A. As always, we remind you to contact your board attorney if you require legal advice with respect to the legislation and its implementation in your district.

### 1. What do the new marijuana laws do?

P.L.2021, c.16, entitled the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” legalizes personal use cannabis for certain adults, subject to State regulation; decriminalizes small amount marijuana and hashish possession; and removes marijuana as a Schedule I drug.

P.L.2021, c.19 provides for certain criminal and civil justice reforms, particularly addressing legal consequences associated with certain marijuana and hashish offenses, as well as raising awareness of available expungement relief.

P.L.2021, c.25 concerns certain regulated substances, with particular emphasis on underage possession or consumption of various forms of cannabis, including legal consequences for such activities

### 2. Does the decriminalization of marijuana affect how schools should operate as drug-free organizations?

No. While the law decriminalizes possession of 6 oz. of marijuana or less for adults – people age 21 or older – schools can still prohibit the possession and or use of marijuana on school premises or at school events, much like schools can now prevent possession or use of tobacco products and/or alcohol.

### 3. Does a school still retain the right to discipline a student who is found to be under the influence of marijuana or in possession of marijuana or paraphernalia at school or a school sponsored event or activity?

Yes. Nothing in the new laws prohibits a school from taking disciplinary action unless there is a medical exemption pursuant to N.J.S.A. 18A:40-12.22. Schools still maintain the right to ensure that students are not under the influence at school and to take action when they violate the code of conduct.

### 4. Do the reporting requirements under N.J.S.A 18A:40A-12 for appearing to be under the influence at school or at a school event change in light of the new marijuana laws in NJ?

No. If a student appears to be under the influence – whether it is alcohol, marijuana or some other drug, the principal or the designee still shall arrange for an immediate medical examination of the student, either by the physician selected by the parent or guardian, or that physician is not available, then by another physician selected by the school, or the student shall be taken to the emergency room. This shall be followed by a written report furnished within 24 hours by the examining physician to the parents/guardians and the chief school administrator. All the follow-up requirements remain the same as well.

### 5. How should school officials interact with law enforcement in light of the changes in the marijuana laws? Has the role of the School Resource Officer (SRO) changed as a result of the new marijuana laws?

The ability of local law enforcement to act on such notice is limited by the new legislation. Based on the current MOA, law enforcement must be notified as in the past, considering the requirements in the MOA with law enforcement requiring notification in certain prescribed circumstances. It is anticipated that the MOA will be amended in the future to address this situation.

### 6. Do the new laws bar school officials from contacting parents for initial marijuana infractions?

No. Depending on what the school policy says, and pursuant to the medical examination requirement as set forth in N.J.S.A. 18A:40a-12, parents should be notified.

**7. Can students be barred from participation in school-sponsored sports activities if they use marijuana in a manner similar to other non-prescribed drugs and/or alcohol that would otherwise preclude their participation in the same?**

Yes. The new law only decriminalizes marijuana, meaning that possession and use is no longer subject to criminal penalties. But a school district can still impose administrative penalties, such as barring students from participating in athletic activities who have non-prescribed drugs found in their system, which presumably would be based on health and safety concerns. In addition, the NJSIAA lists alcohol and cannabinoids as banned substances subjecting athletes to disqualification. Therefore, there will remain penalties for use of marijuana and alcohol with respect to interscholastic sports.

**8. Should a School Resource Officer search a student suspected of possessing marijuana?**

No. First, a school resource officer is considered law enforcement. There is a higher legal standard that must be met by law enforcement than by school officials to justify any search of a student. Law enforcement needs probable cause that evidence of a crime will be found as a result of a search. Second, law enforcement officers may no longer request consent to search from students under the age of 18 – because they are not deemed capable of providing consent. As for the search itself, law enforcement is no longer permitted to search a person for suspected possession alone.

**9. Should a School Administrator search a student suspected of possessing marijuana? If so, when?**

Yes. As a general rule it is better to have school administrators conduct student searches than law enforcement, since a school administrator needs to be able to articulate reasonable suspicion that a student has violated a school district policy, rather than probable cause that a student has violated state law. In addition, New Jersey's revised laws regarding cannabis use, as noted above, would prevent law enforcement searches of students in all cases where the search is based on suspected possession

**10. Can students bring foods that contain cannabis and/or cannabis derivatives to school?**

No. As students cannot bring alcohol, cigarettes or drugs into school, on school premises or to school functions, it would stand to reason that they cannot bring drinks or foods that contain cannabis derivatives.

**11. Should Board policies be reviewed and amended?**

Yes. The newly enacted laws decriminalizing possession or use of marijuana present new challenges for school officials which should lead boards of education to review their policies and make necessary adjustments.







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