



*Law, Ethics and Governance for All
Leaders, including an Overview of New
and Emerging Issues*



The Association of Student Assistance Professionals of New Jersey
The first organization in the nation for Student Assistance Professionals (1983)

LEGAL ONE/ASAPNJ: Creating a Unified Team Approach and Comprehensive Plan for Addressing Student Substance Use

October 4, 2024

Presenters

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DISCLAIMER

This presentation is intended as a summary of law only and is not meant as legal advice. Please consult your attorney to obtain legal advice.

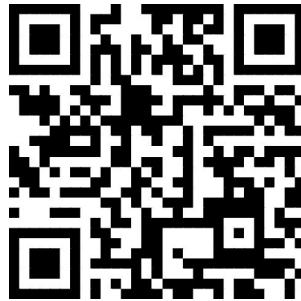


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Presentation Materials

Today's document(s) can be accessed at

<https://tinyurl.com/LO-StdntSubAbuse-241004>



This folder can be accessed for **30 days** from the session date.

Please download all files before the link expires.

WELCOME AND OVERVIEW

Today's Agenda

MORNING (9:00 – 11:45)

- Welcome and Overview
- Latest trends in substance use and mental health, available resources
- Overview of legal requirements
- Break
- Review of Framework/Template for Analyzing District Protocols - DN and a practitioner

LUNCH (11:45 – 12:30)

AFTERNOON (12:30 – 3:00)

- Addressing the Mental Health and Substance Use Connection
- Panel Discussion
- Small Group Discussion on Focused Aspects of Substance Use Protocols, application of Framework
- Reporting Out, Next Steps, Summary

LATEST TRENDS AND RESOURCES

OVERVIEW OF LEGAL REQUIREMENTS

Overview of Duty to Report

Suicidal ideation or attempt – Duty of Care toward students	Suspected Child Abuse/Neglect – N.J.S.A. 9:6-8.10	Suspected of Being Under the Influence – See N.J.S.A. 18A:40A-12	Suspected HIB – See N.J.A.C. 6A:16-7.7
Dating Violence	Discrimination	Sexual Offenses	Situations that present a danger to adults and/or students
Situations that create a hostile educational environment for adults and/or students	Weapons and other criminal activity	Other code of conduct issues – See N.J.A.C. 6A:16-7.1	As required under MOA with law enforcement
	As necessary to address IEP or 504 plan – See N.J.A.C. 6A:14	Other Foreseeable Harm!	

18A:40A Overview

- 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)

Prevention Protocols

- Curriculum K-12 – Constant need for updating
 - New substances
 - New forms of use
 - Changing perception of risk
- Active Engagement from Students
- Strong Mental Health Support System
- Proactive Approach for Supporting At-Risk Student Populations, Responding to trauma/ACEs
- Strong protections for Confidentiality

Intervention Protocols

- Student Suspected of Being Under the Influence (very specific response requirements)
- First Priority – Student Safety
- Other Considerations
 - Student Searches
 - Law Enforcement
 - Refusal to Cooperate

Statute on Referral for Medical Exam

- **N.J.S.A. 18A:40A-12**
- Whenever it shall appear to any teaching staff member, school nurse or other educational personnel ... that a pupil may be under the influence ... that teaching staff member ... shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a [SAC], AND to the principal or, in his absence, to his designee.
- The principal ... shall immediately notify the parent or guardian and the superintendent of schools ... and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available.
- The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence...

Suspicion of Under Influence

Medical Exam

- Must be MD or DO for medical exam for suspected under the influence. NOT PA or APN.
- Must arrange for immediate medical exam – window should be small (e.g. 2 hours)
- Drug testing requirement must be spelled out in district policy (not automatic under state law)
- NOTE from doctor must be provided to district within 24 hours (If exam took place and note is delayed then must allow to return to school)

Doctor's Notes

- Permissible for school district to confirm authenticity of note
 - Some notes are signed by others in office, not doctor
- Permissible to clarify information provided in doctor's notes
- Doctor's notes must be considered, but not always followed
- IF district policy requires drug test as part of exam, then note should indicate that drug testing occurred as part of exam

Suspected of Being Under the Influence

- Step 1 – Initial Report to nurse, school physician, or SAC AND to the principal
- Step 2 – Arrange for **immediate** medical exam
- Step 3 – Nurse assesses student medical needs
- Step 4 – School officials may search student, belongings (cannot delay medical exam)
- Step 5 – Review report from med exam, allow reentry when cleared (report w/in 24 hours)
- Step 6 – Provide necessary supports/referrals
- Step 7 – Impose consequences per code of student conduct, and supports – explore moving away from out of school suspension

Opioid Antidotes in Schools

- P.L. 2018, Chapter 106 – Requires Opioid Antidotes in Schools and Permits Emergency Administration by School Nurse or Trained Employee
 - **Effective date – December 1, 2018**
 - [NJDOE Guidelines](#) Issued in May 2019
 - Board policy required for emergency administration of Opioid Antidote to students, staff or others
 - Requires all Schools with any of grades 9 – 12 to obtain a standing order for these antidotes and to maintain a supply in a secure, unlocked, easily accessible location
 - Board determines quantities and types of antidotes in consultation with DOE and DOH

Opioid Antidotes

- Must make accessible during school day, school-sponsored functions on school grounds and optionally off school grounds
- School Nurse primary responsibility
- Volunteer employee designees to be trained on standard protocols – e.g. nurse may not be present for athletics, field trips, school functions
- Must transport to ER even after administration of antidote
- Indemnity from liability
- Can enter shared service arrangements with schools and/or municipalities

Procedures for Emergency Overdose

- 1) 9-1-1 called immediately
- 2) CSN called immediately (or designee if no CSN)
- 3) CSN or designee determine need for responses such as CPR, Rescue Breaths, AED)
- 4) Administer antidote to person (student, staff, parent, etc.) if good faith belief of overdose
- 5) Monitor person while waiting for emergency responders
- 6) Transport to hospital
- 7) Notify parent/guardian if student or emergency contact if staff
- 8) Superintendent notified

NJDOE Resources – Sudden Cardiac Arrest

- **Sudden Cardiac Arrest**
- [Janet's Law \(N.J.S.A. 18A:40-41a through 41c\) \(Also known as the defibrillator law\)](#)
 - [Frequently Asked Questions and Answers](#)
- [P.L. 2013, c. 71, Scholastic Student-Athlete Safety Act](#)
- [P.L. 2013, c. 209, Sudden Cardiac Arrest Prevention Act](#)
- [P.L. 2013, c. 143, Sudden Cardiac Events Reporting Act](#)

Student Vaping/In Possession

- Prohibited in school, on school grounds, at school function for students and adults
- Vapes need to be seized by school administration
- Only turned over to law enforcement IF there is reason to believe it is being used for marijuana, other CDS
- IF student is showing signs of being under the influence, must be sent out for immediate medical exam

Referral for Treatment Protocols

- Cannot exclude from returning to school after receipt of medical note indicating reentry is appropriate without providing due process for students and parents/guardians
- Specific due process for student with IEP if excluded due to imminent danger to self/others
- Important to explore with parent voluntary options for information sharing, avoid roadblocks under HIPAA
- 16 and 17 year olds can directly consent to external treatment for substance use, mental health, younger age for other treatments (Keystone Law)

Keystone Law – Minor Consent

- Under the **Boys and Girls Clubs Keystone Law (P.L. 2015, c. 287)** minors who are 16 or 17 years of age may consent to receive treatment for mental health needs without parental consent. Note various ages/consent requirements:
 - Treatment for mental illness, emotional disorders, age 16+
 - **Substance Use, alcoholism treatment extends to all minors (not just 16+)**
 - Treatment for suspected HIV/Aids age 13+
 - Treatment for suspected venereal disease, any age
 - Treatment for sexual assault any age, then requires parental notice, unless physician believes not in best interests of child
- Where minor can consent, confidentiality rights **apply directly to the minor**, no notice to parent unless treating doctor believes in best interest of child
- See [Q & A](#)
- Note there is a bill pending, A2328, that would change the age to 13 for minors to access treatment services directly

FERPA—Q & A on doctor notes

- Q. If a school wants to contact a child’s doctor about an inaccuracy on an excuse note, do we need any special permission or may we contact the doctor directly?
- A. Under FERPA, the 2008 regulations changed the definition of “disclosure” to permit a school to contact the stated source of a record (such as a doctor’s note) for verification purposes. This is not considered a disclosure and, therefore, does not violate FERPA. In other words, FERPA permits a targeted release of records back to the stated source for verification purposes.

FERPA and HIPAA

- See [Joint Guidance on Application of FERPA and HIPAA](#)
- Generally schools are not governed by HIPAA
- ***Where the HIPAA Privacy Rule applies, does it allow a health care provider to disclose protected health information (PHI) about a student to a school nurse or physician?***
- Yes. The HIPAA Privacy Rule allows covered health care providers to disclose PHI about students to school nurses, physicians, or other health care providers for treatment purposes, **without the authorization of the student or student's parent**. For example, a student's primary care physician may discuss the student's medication and other health care needs with a school nurse who will administer the student's medication and provide care to the student while the student is at school.

From Joint HIPAA/FERPA Guidance

- **21. Under HIPAA, when can information be shared about someone who presents a serious danger to self or others?**
- The HIPAA Privacy Rule permits a covered entity to disclose PHI, including psychotherapy notes, when the covered entity **has a good faith belief that the disclosure: (1) is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or others and (2) is to a person(s) reasonably able to prevent or lessen the threat.** This may include, depending on the circumstances, disclosure to law enforcement, family members, the target of the threat, or others whom the covered entity has a good faith belief can mitigate the threat. The disclosure also must be consistent with applicable law and standards of ethical conduct. See 45 CFR § 164.512(j)(1)(i).
- **For example ... a mental health provider whose teenage patient has made a credible threat to inflict serious and imminent bodily harm on one or more fellow students may alert law enforcement, a parent or other family member, school administrators or campus police, or others the provider believes may be able to prevent or lessen the chance of harm.** In such cases, the covered entity is presumed to have acted in good faith where its belief is based upon the covered entity's actual knowledge (i.e., based on the covered entity's own interaction with the patient) or in reliance on a credible representation by a person with apparent knowledge or authority (i.e., based on a credible report from a family member or other person). See 45 CFR § 164.512(j)(4).

Permissible Disclosure to Protect Health and Safety

- FERPA permits disclosure of personally identifiable information in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- What constitutes an “emergency”?
 - Based on the “totality of the circumstances” is there “an articulable and significant threat to the health or safety of a student or other individuals”?
- School officials are given the benefit of the doubt!
 - “If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.” See 34 CFR 99.36.

Confidentiality Protections

- Applies to:
 - Participation in drug/alcohol counseling
 - Information shared about personal drug use and family member use
 - Students or adults who voluntarily turn over CDS, drug paraphernalia
 - HOWEVER, important to understand limitations on confidentiality

42 CFR Part 2 Exceptions

- Substance Use disorder treatment programs that receive federal funding
- All information concerning a student's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential, according to the requirements of 42 CFR Part 2, N.J.S.A. 18A:40A-7.1 and 7.2 and N.J.A.C. 6A:16-3.2.
- Public Schools are covered entities under 42 CFR Part 2
- There are a few limited exceptions when providers can make disclosures without a patient's written consent, including:
 - [Internal communications](#)
 - [Medical emergencies](#)
 - [Reports of alleged child abuse or neglect \(if required by state law\)](#)
 - [Reports of a crime on program premises or against program personnel](#)
 - [Qualified audits or evaluations of the program](#)
 - [Research](#)
 - [Qualified service organization agreement](#)
- [Pursuant to a Part 2-specific court order](#)

Exceptions to Confidentiality

- Drug distribution in school
- Suspected child abuse, neglect
- Medical emergency, sharing information as needed
- Credible threat of imminent danger – self/others
- Crime on school grounds, at school function
- CDS seized (UNLESS turned over voluntarily prior to any questioning)
- Internal sharing as needed to support student
- Court Order

MOA between Education and Law Enforcement

- ***NJDOE 12/13/23 [Release of the 2023-2024 Memorandum of Agreement Between Education and Law Enforcement Officials](#)***
- Stresses dangers of school to prison pipeline and potential bias in discretionary reports
- Clarifies requirements related to reporting/handling of marijuana
 - Law enforcement must take control of substances that are believed to be marijuana
 - Vapes turned over if reason to believe vape was used for marijuana
- Clarifies requirements related to reporting Bias-Related Acts
 - Failure to report may be a violation of NJLAD

Mandatory Reports to Law Enforcement

Whenever any school employee...

1. Has reason to believe a **student is in possession of a controlled dangerous substance or related paraphernalia, or is involved or implicated in distribution activities regarding controlled dangerous substances**, pursuant to *N.J.A.C. 6A:16-6.3 (Article 3.2)*
2. In the course of his employment develops reason to believe that a firearm or other dangerous weapon has unlawfully been possessed on or off school grounds, a weapon was used in an assault against a student or other school personnel, or that any student or other person has committed an offense with, or while in possession of, a firearm, whether or not such offense was committed on school grounds or during school operating hours, pursuant to *N.J.A.C. 6A:16-5.5, 5.6(d)4 and 6.3(b) (Article 3.6)*
3. In the course of his employment develops reason to believe that anyone has threatened, is planning, or otherwise intends to cause death, serious bodily injury, or significant bodily injury to another person under circumstances in which a reasonable person would believe that the person genuinely intends at some time in the future to commit the violent act or to carry

Mandatory Reporting (cont'd)

4. In the course of his employment develops reason to believe that a crime involving sexual penetration or criminal sexual contact has been committed on school grounds, or by or against a student during school operating hours or during school-related functions or activities, pursuant to *N.J.A.C. 6A:16-6.3(d)* (Article 3.12)

5. In the course of his employment develops reason to believe that an assault upon a teacher, administrator, other school board employee, or district BOE member has been committed, with or without a weapon, pursuant to *N.J.A.C. 6A:16-5.7(d)*5 (Article 3.14)

6. In the course of his employment develops reason to believe a “bias-related act” has been committed or is about to be committed on or off school grounds, pursuant to N.J.A.C. 6A:16-6.3(e) (Article 3.16) and

7. In the course of his employment develops reason to believe a student is potentially missing, abused, or neglected, pursuant to *N.J.A.C. 6A:16-11.1(a)*3i through iii (Article 3.7)

Law Enforcement and Electronic Smoking Devices under the MOA

3.3.8. Electronic Smoking Devices

“Electronic smoking device” means an electronic device that can be used to deliver nicotine or other substances (e.g., marijuana) to the person inhaling from the device, including, but not limited to, an electronic cigarette, vape pen, cigar, cigarillo, or pipe.

N.J.S.A. 26:3D-55 bans the use of electronic smoking devices in public places and workplaces, including, but not limited to public and nonpublic elementary or secondary school buildings, BOE buildings and any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school, regardless of whether the area is an indoor public place or is outdoors.

Schools are encouraged to develop policies surrounding the use and/or possession of electronic smoking devices.

Electronic smoking devices should only be reported to law enforcement when there is reasonable suspicion that the device is being used as a nexus for marijuana or other illegal drugs.

NJ Administrative Code – Reporting Possession or Distribution of CDS

- 6A:16-5.3 Incident reporting of violence, vandalism, and alcohol and other drug abuse
 - (a) For purposes of reporting information at the school level, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying; vandalism; possession, use, or sale or distribution of a weapon; **or the possession or distribution of alcohol or other drugs on school grounds**, and any school employee who reports a student for being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12, shall file with the principal a report describing the incident.
 - 1. The report shall be on a form adopted for such purposes by the district board of education.
 - i. The form shall include all information necessary for complete, accurate reporting on the Student Safety Data System (SSDS)

NJ Administrative Code – Reporting to Law Enforcement

- 6A:16-6.3 Reporting students or staff members to law enforcement authorities
 - (a) **Subject to N.J.A.C. 6A:16-6.5**, any staff member who, in the course of the staff member’s employment, has reason to believe that a student or staff member has **unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia** shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

NJ Administrative Code – Reporting to Law Enforcement

- 1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
- 2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

NJ Admin Code – Voluntarily Turning over CDS

- N.J.A.C. 6A:16-6.4(a)4.
- The principal or designee **shall not disclose** the identity of a student or staff member who voluntarily and on the student's or staff member's own initiative turned over the alcohol, other drug, or paraphernalia to a school employee, provided there is reason to believe the student or staff member was involved with the alcohol, other drug, or paraphernalia **for the purpose of personal use and not distribution activities, and further provided the student or staff member agrees to participate in an appropriate treatment or counseling program.**
 - i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall not constitute a voluntary, self-initiated request for counseling and treatment.

Minors and Marijuana

Law Enforcement Response

The law also establishes a new framework for individuals under the age of 21 who possess or consume any amount of marijuana, hashish, cannabis, or alcohol in any public place, **including a school**:

- **First offense.** Officers shall issue a written warning, which must include the person's name, address, and date of birth, but the warning shall not be provided to the individual's parent or guardian. For individuals under the age of 18, a written notification concerning the violation shall be provided to the parent, guardian or other person having legal custody. **
- **Second offense.** Officers shall issue a written warning, and also provide the person with informational materials on community drug treatment services. For individuals under the age of 18, a written notification concerning the violation shall be provided to the parent, guardian or other person having legal custody. The written notification shall include the same or similar informational materials about how to access community drug treatment services. **

Law Enforcement Response (cont'd)

- **Third or subsequent offense.** Officers shall issue a written warning and provide the individual with a referral to community drug treatment services. If the individual is between 18 and 21, then the officer shall provide notice to that community drug treatment agency or organization of the referral which may also be used to initiate contact with the person. If the individual is under 18, then the officer shall provide written notification to the parent, guardian or other person having legal custody, include a referral for the individual and the parent, guardian, etc to community drug treatment services and provide notice to that drug treatment agency or organization of the referral which may also then be used to initiate contact with both persons. **

**A sworn statement that includes a description of the relevant facts and circumstances that support the officer's determination that the person committed a violation, shall be temporarily maintained only to the extent necessary to determine violation tier and to track referrals to agencies and organizations

Medical Marijuana

- Must be in local district policy as per N.J.S.A. 18A:40-12.22
- Cannot be administered by the school nurse
- Must be parent or adult designee of parent
- Must allow option for administration in school, at school events, on field trips
- Cannot be smoked
- Possession by student prohibited
- If Student Suspected of Being Under the Influence, unable to properly function in school, then follow N.J.S.A. 18A:40A-12 immediate medical exam

Medical Marijuana

- Likely to see increase in medical marijuana prescriptions going forward
- Need to update and clarify provisions on use of medical marijuana
- Current language in MOA 3.3.7 infers right to limit use in various locations
- Every school district required to have a policy
- Policy must permit use of medical marijuana at school, on school grounds, on school bus, at school event, **on school trips**
- Need to clarify for schools:
 - Reasonable parameters for when and how it is distributed, including how to properly administer, supervise administration in various locations
 - Role of school officials if parent, guardian or primary caregiver fails to follow proper protocols
 - Reasonable steps to be taken before, during, after administration

Conditions Approved for Medical Cannabis in New Jersey

- Amyotrophic lateral sclerosis
- **Anxiety**
- Cancer
- Chronic pain
- Dysmenorrhea
- Glaucoma
- Inflammatory bowel disease, including Crohn's disease
- Intractable skeletal muscular spasticity
- Migraine
- Multiple sclerosis
- Muscular dystrophy
- Opioid Use Disorder
- Positive status for Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)
- Post-Traumatic Stress Disorder (PTSD)
- Seizure disorder, including epilepsy
- Terminal illness with prognosis of less than 12 months to live
- Tourette Syndrome

Recent NJDOE Guidance

- See NJDOE Broadcast Email – 12/13/23
[Delegation of Medication Administration in School Settings](#)
- Makes clear that Certified School Nurses must operate under education laws in addition to general requirements for Registered Nurse, and must follow all restrictions for School Nurses related to administration of medication

Persons Authorized to Administer Medication

- School Physician
- Certified School Nurse OR Noncertified nurse
- Substitute School Nurse
- Student's Parent
- Student approved to self-administer
- Other school employee trained and designated by the certified school nurse to administer epinephrine or glucagon

Noncertified Nurse

- Must be assigned to the same school building or school complex as CSN
- LPN scope of practice includes medication administration
- LPN must be supervised by CSN. As per NJ Board of Nursing
 - Supervision does not necessarily require direct continuing presence of CSN
 - May instead be “intermittent observation, direction, and occasional physical presence” of CSN

Statutes Regarding Administration of Medication

- N.J.S.A. 18A:40-12.3 permits the self-administration of medication by a pupil for asthma or other potentially life-threatening illnesses, a life-threatening allergic reaction, or adrenal insufficiency.
- N.J.S.A. 18A:40-12.15 allows for students with diabetes to self-manage their care and administer medication related to their diabetes.
- N.J.S.A. 18A:40-12.30 requires the school nurse to designate the administration of hydrocortisone sodium succinate to employees who volunteer when the nurse is not available.
- N.J.S.A. 18A:40-12.14 requires the school nurse to designate the administration of glucagon to a student with diabetes who is experiencing severe hypoglycemia when a school nurse is not physically present at the scene.
- N.J.S.A. 18A:40-12.6c requires the school nurse to recruit and train volunteer designees to administer epinephrine via an auto injector when the nurse is not present.
- N.J.S.A. 18A:40-12.24 directs the school nurse and trained school personnel to administer opioid antidotes in the event that someone is believed to be experiencing an opioid overdose.

MORNING BREAK!

FRAMEWORK FOR ANALYZING DISTRICT PROTOCOLS

MARIJUANA LEGALIZATION AND SCHOOL POLICY:

A Public Health Approach



Release of Toolkit for Schools by NJPN

- March 2023 - New toolkit released, intended to assist school officials in addressing issues related to marijuana use by students
- Developed by NJPN, with ongoing collaboration and support by LEGAL ONE
- Includes information on:
 - Recent changes in law regarding marijuana use and New Jersey’s legal framework for addressing student use, and state and federal law regarding student privacy, searches, and responding to students suspected of being under the influence
 - the changing nature of marijuana use, including ways it may be ingested and increasing THC levels
 - Resources for supporting students and implementing best practices
 - Checklists, Scenarios, FAQs, Glossary of Terms

Suspected to be Under the Influence – Key Questions

- See pages 13 – 16 of Toolkit
- Is there a reluctance to report?
- Are staff identifying signs/symptoms when reporting?
- Are staff suspicions generally founded or unfounded?
- Is known information being shared to reduce the change of unnecessary reports?

Key Questions (cont'd)

- Does your policy have a 2-hour window?
- Are parents delaying medical exam in hopes of getting negative result?
- Does your policy specify drugs to be tested for? Are parents told this?
- Do you effectively address students suspected under the influence at school events?
- Is there planned follow up and support for students who test positive?

Key Questions (cont'd)

- Does your policy include heavy reliance on out-of-school suspension? If so, how effective has that been? What other negative impacts have resulted?
- What alternatives to suspension are being considered (see page 27 of Toolkit)?
- Are school officials protecting confidential information or improperly sharing with law enforcement?

Is Your Policy Effective?

Key Questions

- See pages 24-25 of Toolkit
- What trends are you seeing in substance use?
- Do you have data on students voluntarily seeking support?
- Are you updating curriculum regularly?
- What level of parent engagement on their role?
- Are you consistently implementing required protocols for students suspected to be under the influence?

Key Policy Questions (cont'd)

- Have you built strong connections with community agencies?
- Are you gaining parental consent to communicate with such agencies?
- Do staff understand and protect confidentiality?
- Do you have SACs in place in each school?
- Is there strong collaboration w/ nurses, SACs, counselors, IEP teams, I & RS teams, etc.?

Tobacco Free Toolkit

- **Tobacco Free for a Healthy NJ TFHNJ** 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, etc.
<https://www.tobaccofreenj.com/youth-tobacco-action-groups>
- **Developed by New Jersey Prevention Network in collaboration with LEGAL ONE and other key stakeholders**
- **Includes Comprehensive School Tobacco Policy**

NJHealth
New Jersey Department of Health



Tobacco-Free
FOR A HEALTHY NEW JERSEY

COMPREHENSIVE SCHOOL TOBACCO POLICY

Key Policy Components

- II. Purpose
- III. Definitions
- IV. General Statement of Policy
- V. Exceptions
- VI. Opportunities for Cessation Programs
- VII. Response Protocol
- VIII. Enforcement
- IX. Types of Offenses
- X. Professional Development
- XI. Dissemination of Policy
- XII. Program Evaluation

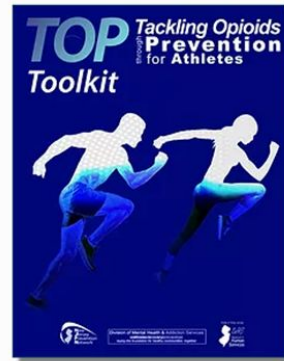
Model Comprehensive Tobacco Free School Policy: Key Policy Considerations

- Comprehensive definition of “electronic cigarette” and “vape products” that entails current and future products.
- Focus on ensuring student safety and on effective interventions to include educational components and cessation opportunities.
- 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, N.J.S.A. 26:3D-55, et seq.
- Understand and comply with relevant school district requirements related to use of ENDS/other tobacco products.

Educational Response First

- There is no requirement to automatically send a student out for a medical examination simply because the student was found in possession of a vaping device.
- Following the response protocol in this model policy ensures an effective, legally compliant approach that protects students.

NEW JERSEY REGIONAL COALITIONS



Technical Assistance, Education &
Resources Available through your
local County Hub
WWW.NJPreventionHub.org
prevention@njpn.org

Resources for Parents



[Individual & Family Programs](#)

[Promoting Screening](#)

[Policy Toolkits](#)

[More](#)



**Connect.
Guide.
Empower.**

[About](#)

[Talking to Your Teen](#)

[Facts About Substances](#)

[Find Support](#)

[Get Involved](#)

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Best Practice Considerations

- 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. See **Tobacco Free for a Healthy NJ TFHNJ** 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, etc.
<https://www.tobaccofreenj.com/youth-tobacco-action-groups>
- 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. ‘
- Have in place policies allowing for the administration of medical cannabis. See PL 2015, c.158.

NJDOE Mental Health Guide

- [NJDOE Memo February 9, 2022:](https://www.nj.gov/education/broadcasts/2022/feb/09/NewJerseyComprehensiveSchool-BasedMentalHealthResourceGuideRelease.pdf)
<https://www.nj.gov/education/broadcasts/2022/feb/09/NewJerseyComprehensiveSchool-BasedMentalHealthResourceGuideRelease.pdf>
- 200+ page guide, uses MTSS approach as framework
- Includes chapters addressing suicide prevention, risk assessment and response, substance use, reentry planning
- Wrote chapter, in collaboration with NJPN, addressing substance use and mental health
- Guide establishes expectations for best practice, **which raises potential legal liability if districts fail to consider those best practices**

New Jersey Statewide Student Support Services Network (NJ 4S)

- “Hub and Spoke” System
- State organized into 15 regions
- Intended to streamline and expand access to needed mental health services
- School-based youth service programs remain in place, for now
- Important for SACs to have a strong voice as this moves from concept to reality
- **See New Jersey Statewide Student Support Services Network website - <https://www.nj.gov/dcf/nj4sconcept.html>**
- **NJ4S Concept Paper - https://www.state.nj.us/dcf/documents/NJ4S_Concept.pdf**

NJ Pediatric Psychiatry Collaborative

- NJPPC - [New Jersey Pediatric Psychiatry Collaborative – Transforming Access to Children’s Mental Health Care \(nj-ppc.org\)](https://nj-ppc.org)
- Open to all pediatricians, school doctors
- Enables doctors to quickly consult with child psychiatrists
- Streamlines process for getting students in need to be seen by child psychiatrist
- Important to educate parents, schools, pediatricians

LUNCH!

THE SUBSTANCE USE AND MENTAL HEALTH CONNECTION

PANEL DISCUSSION

SMALL GROUP WORK

Small Group Discussion

- Group 1 – Awareness and Prevention
- Group 2 – Identification, Immediate Response
- Group 3 – Code of Student Conduct
- Group 4 – Long-Term Supports
- Group 5 – Collaboration with Parents and External Partners
- Key Questions
 - What can be done to promote a unified team approach to addressing student substance use and supporting students?
 - What are the 3 most effective protocols/ programs/ strategies that should be, but are not yet, in place in your school district to address your assigned area of focus?
 - What are the challenges to implementing those approaches?
 - What are the most effective strategies that can be employed to build support for those new approaches?

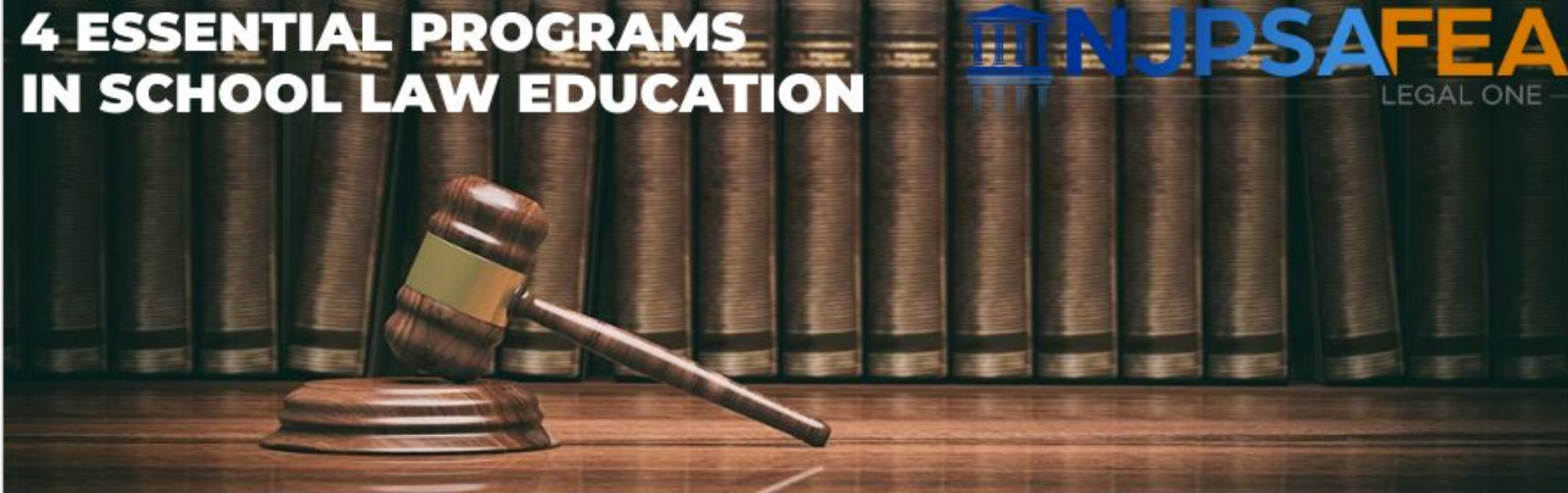
REPORTING OUT

Q & A / NEXT STEPS

Conclusion

- Thank you for choosing professional development with LEGAL ONE!
- Visit our website for more courses that can support your work at <http://www.njpsa.org/legalonenj/>
- Participants are authorized to use the LEGAL ONE materials provided in this training to offer turnkey training within the respective participant's school district or place of employment, provided that participants provide proper credit to LEGAL ONE for having developed said materials and further provided that such turnkey training is offered at no charge.
- If you have any questions about this presentation or suggestions for future seminars, please send an email to legalone@njpsa.org

4 ESSENTIAL PROGRAMS IN SCHOOL LAW EDUCATION



LEGAL ONE (Law, Ethics and Governance for **All Leaders**, including an **Overview of New and Emerging** issues) is the leading provider of education law workshops, online courses, and webinars for school leaders, educators, and other key stakeholders. We can also provide you and your entire team in-district training on any school law matter.



Workshops & Webinars

Live or On-Demand. In-Person or Virtual. Sessions of legal issues in education taught by LEGAL ONE attorneys and subject matter experts.

01



In-District Presentations

Professional learning that is specific to your district with options ranging from comprehensive multi-day series down to a single hour.

02



Online Courses

You have the flexibility to take the course wherever and whenever you choose and to focus more time on the aspects that are most relevant to you.

03



Podcast Episodes

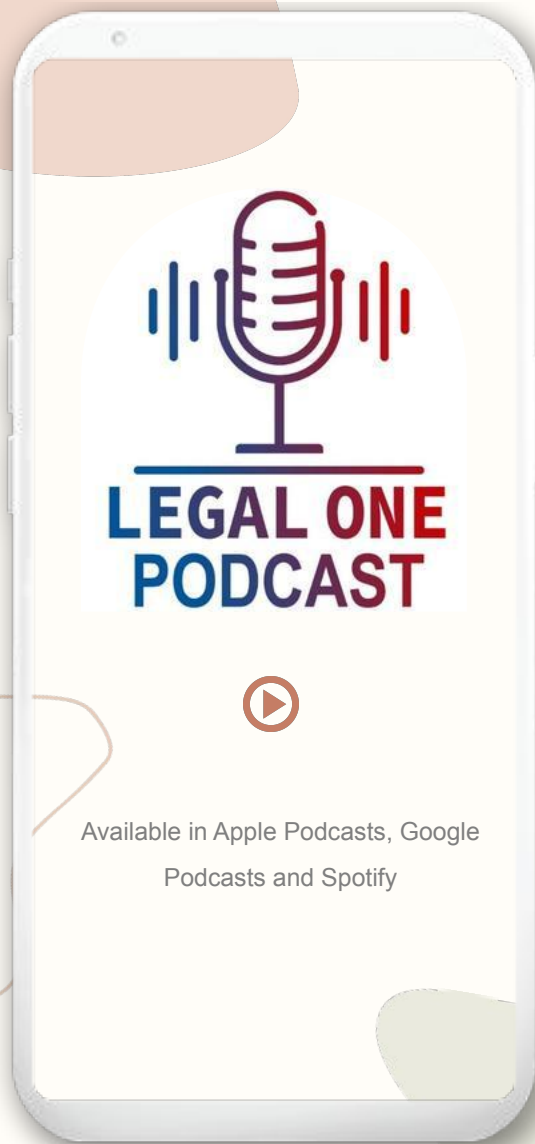
Helping you understand complex legal issues, in brief segments. The format includes legal analysis and commentary and interviews with key stakeholders.

04



609-860-1200

legalone@njpsa.org




About the LEGAL ONE PODCAST


As the leading provider of school law training, the LEGAL ONE team of school law experts is pleased to offer the LEGAL ONE Podcast, a weekly podcast that helps you understand complex legal issues. Each episode is hosted by a LEGAL ONE attorney and/or an attorney working in partnership with LEGAL ONE. The format includes legal analysis and commentary and interviews with key stakeholders.

[LISTEN NOW](#)



DATE 
TUESDAY, JANUARY 28, 2025

TIME 
9AM TO 3PM

PRESENTERS 
DAVID NASH, ESQ., *DIRECTOR OF LEGAL EDUCATION AND
NATIONAL OUTREACH*; JOHN WORTHINGTON, ESQ.,
COORDINATOR OF SPECIAL EDUCATION LAW; GETA VOGEL,
COORDINATOR OF MENTAL HEALTH, WELLNESS AND THE LAW

FEE 
\$150 MEMBERS/NON-MEMBERS

LOCATION 
FEA CONFERENCE CENTER, 1 CENTRE
DRIVE, MONROE TOWNSHIP, NJ 08831

NOTE: All professional development POs are to be issued to FEA and sent to feasupport@njpsa.org; "Member" pricing applies only to active NJPSA members.

School Law Bootcamp: Focus on Mental Health, Substance Use **WORKSHOP** and Staff Rights :

In the real world, school leaders are required to constantly make rapid decisions with far reaching legal implications. With emotions on edge in light of the pandemic and our overheated political climate, and with major changes in state and federal discrimination law, and recent landmark Supreme Court decisions, making legally sound decisions is more difficult than ever. In this session, participants will be put through a series of simulations involving issues in the school setting, at a school board and other school functions, in social settings outside the school and in a courtroom setting in the midst of litigation.

[**CLICK TO REGISTER**](#)



Certificate & Evaluation

Today's professional development certificate is available to save/download at the end of a **brief** evaluation.

<https://www.surveymonkey.com/r/LO-StudentSubAbuse-241004>



Please take a few minutes to let us know what you thought of the session!