

Regulations

No. 7130

Board of Education

NUTLEY

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DRUG FREE SCHOOL ZONES

A. Definitions

1. "Controlled dangerous substance" means a drug, substance, or immediate precursor as defined at N.J.S.A. 2C:35-2 and includes controlled substance analogs.
2. "County Prosecutor" means the prosecutor of the County of Essex.
3. "Dispute" means a question, dispute, or objection as to any proposed or ongoing law enforcement operation or activity.
4. "Drug free school zone" means the zone comprised of a school building, its grounds, and the area surrounding the school within a boundary established one thousand feet in all directions from the outer boundary of the school property. The drug free school zone will be set by the appropriate law enforcement agency.
5. "Law enforcement agency" means the Nutley Police Department.
6. "Law enforcement officer" means a sworn officer of the law enforcement agency.
7. "Memorandum of understanding" means an agreement entered by the Board of Education and the law enforcement agency governing the roles and responsibilities of school employees and law enforcement officers with respect to controlled dangerous substances and to the planning and conduct of law enforcement activities and operations occurring on school property.
8. "Operating school hours" means the time period in which the school is in session or when pupils are engaged in school-related activities under the supervision of teaching staff members.
9. "Parent" means the parent or parents or legal guardian having legal custody and control of a pupil.

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10. "Planned arrest" means an arrest or taking into custody based upon probable cause which was known to a law enforcement officer sufficiently in advance of the time of the actual arrest, whether as a result of an undercover school operation, planned narcotics surveillance, or otherwise, so that there was sufficient opportunity for the arresting officer or any other law enforcement officer to apply for and obtain an arrest warrant, even though an arrest warrant may not have been sought or issued. The term includes arrests made pursuant to a "clean sweep" operation.
11. "Planned narcotics surveillance" means a planned operation wherein a law enforcement officer(s) enters onto school property or buildings in plainclothes during or while participating in activities associated with the use, possession, or distribution of any controlled dangerous substance. The term does not include observations made by a law enforcement officer, whether in uniform or in plainclothes, from any place or property not owned by the Board of Education.
12. "Principal" means the administrator in charge of a school building or facility and includes the qualified person, if any, duly delegated by the principal to perform the duty or discharge the responsibility assigned to the principal.
13. "Routine patrol" means activities undertaken by a law enforcement officer, whether in uniform or in plainclothes and whether on foot or in a marked or unmarked vehicle, to patrol areas within a drug free school zone for the purpose of observing or deterring any criminal violation or civil disturbance.
14. "School employee" means a person employed by the Board of Education and includes the Superintendent, all administrators, all other teaching staff members, and all support staff members.
15. "Spontaneous arrest" means an arrest or taking into custody based upon probable cause to believe that an offense is being committed in the arresting officer's presence under circumstances where the officer could not have foreseen with certainty that the specific offense would occur and thus where the arresting officer had no reasonable opportunity to apply for an arrest warrant. The term includes any arrest or taking into custody in response to a request by a school official.

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16. "Undercover school operation" means a planned operation undertaken by a law enforcement agency wherein a law enforcement officer(s) is placed in a school community and poses as a member of the school community for the purpose of identifying and eventually apprehending persons engaged in the illegal distribution of controlled dangerous substances.

B. Liaison officer roles and responsibilities

The liaison officer(s) appointed by the Board of Education shall

1. Facilitate communication and cooperation between the school district and the law enforcement agency;
2. Identify issues or problems that arise in the implementation of the policy and this regulation and facilitate the resolution of such problems;
3. Act as the primary contact person between the schools and the law enforcement agency;
4. Cooperate with the law enforcement agency in developing training programs and other joint efforts, including information exchanges and joint speaking engagements;
5. Maintain communications with school staff members charged with intervention and prevention efforts;
6. Maintain communications with the liaison officer appointed by the law enforcement agency; and
7. Report regularly to the Superintendent on matters relating to school district and law enforcement cooperation.

C. Staff cooperation with arrests made by law enforcement officers

1. Staff members shall be governed by the terms of the memorandum of understanding, if any, entered into by the Board and the law enforcement agency regarding the preferred procedures by which law enforcement officers will be summoned to arrest persons and permitted to enter school premises for the purpose of effecting arrests.

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2. To the maximum extent possible consistent with public safety, an arrest on school premises will be effected in such a manner as to permit the continuation of the educational program without disruption.
3. The principal shall be prepared to suggest to a law enforcement officer the place and manner of effecting the arrest that will permit the least disruption of the educational program. Whenever possible, an arrest should be made in the principal's office or in another area not populated by pupils.
4. A school employee who believes that a law enforcement officer should be summoned to effect an arrest shall, whenever possible, so inform the principal and the principal shall call the law enforcement agency. If informing the principal is not possible or would delay the call, the employee shall summon the law enforcement agency directly and shall inform the principal as soon as possible thereafter.
5. The principal shall require that a law enforcement officer inform him or her whenever a pupil enrolled in this district is arrested and removed from school premises. The principal shall require the name of the pupil and information regarding the circumstances of the arrest.
6. The principal shall require that a law enforcement officer inform him or her whenever a person other than a pupil is arrested and removed from school premises. The principal shall require information regarding the circumstances of the arrest and, if the arrested person is not a juvenile, his or her name.
7. The principal shall be informed of an arrest of a pupil enrolled in his or her school when the pupil is arrested
 - a. Off school property during operating school hours or
 - b. While the pupil is under the care and custody of a school official or teaching staff member or
 - c. In transit between school and home at the time of the arrest.
8. The principal shall make and keep a record of the arrest of any pupil enrolled in his or her school. The record shall be kept

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confidential and shall include:

- a. The pupil's name, age, and grade;
 - b. The name of the arresting officer;
 - c. The place to which the pupil was taken, if known;
 - d. The circumstances of the arrest to the extent they are known;
 - e. The manner in which and time at which the pupil's parent was notified or, if the parent was not notified, the efforts made to find and notify the parent; and
 - f. The disposition of the criminal matter.
9. No school employee shall impede any law enforcement officer engaged in a lawful arrest, whether or not the officer has presented an arrest warrant.
10. A question regarding the legality of any contemplated or ongoing arrest conducted by a law enforcement officer and relating to the use, distribution, or possession of a controlled dangerous substance may be directed to the County Prosecutor. A question regarding an arrest undertaken by a member of the Statewide Narcotics Task Force may be directed to the Assistant Attorney General in charge.

D. Searches on school premises

1. School administrators having a legitimate interest in maintaining pupil discipline are authorized to conduct investigations of suspected rule infractions and to subject pupils and pupils' property to reasonable searches and seizures.
2. A search conducted by a school employee of a pupil or a pupil's personal property or a place in which a pupil has a reasonable expectation of privacy must comply with the Pupil Privacy Policy.
3. A principal may request that a law enforcement officer assume the responsibility for conducting a search or seizure. Because law enforcement officers must meet a legal standard for the

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for the conduct of a search or seizure more stringent than that imposed on school officials, the law enforcement officer may decline to conduct the search.

4. No school employee shall impede any law enforcement officer engaged in a lawful search or seizure, whether or not the officer has presented a search warrant.
5. When law enforcement officers arrive on the scene of a joint and cooperative search commenced by school officials, the law enforcement officers will assume responsibility for the search and will conduct the search thereafter in accordance with standards governing the conduct of searches by law enforcement officers.
6. Any substance believed to be a controlled dangerous substance that comes into the possession of a school employee, whether as the result of a search or otherwise, must be handled in accordance with §G of this regulation.
7. A school employee is authorized to exercise independent judgment in the search of pupils and pupil's property. Unless the school employee has made an independent determination that a search or seizure is warranted under his or her authority to discipline pupils and maintain the order of the school, no school employee may be required to participate actively in a search or seizure
 - a. Conducted or supervised by a law enforcement officer or
 - b. On behalf of a law enforcement officer or
 - c. For the sole purpose of ultimately turning evidence of a crime over to a law enforcement agency.
8. A question regarding a search conducted by a school employee and relating to the use, distribution, or possession of a controlled dangerous substance shall be directed to the County Prosecutor.
9. A question regarding the legality of any contemplated or ongoing search or seizure conducted by a law enforcement officer and relating to the use, distribution, or possession of a controlled dangerous substance or the law regarding searches generally may

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be directed to the County Prosecutor. A question regarding a search undertaken by a member of the Statewide Narcotics Task Force may be directed to the Assistant Attorney General in charge.

- E. Interviews of pupils suspected of possessing, using, or distributing a controlled dangerous substance
1. A law enforcement officer who wishes to interview a pupil shall be required to ask the principal for access to the pupil, regardless of the pupil's location in or about school premises or on a school-sponsored trip or at a school-sponsored event.
 2. The principal shall ascertain the reason for the interview and whether the pupil is suspected of having committed an offense involving the use, possession, or distribution of a controlled dangerous substance or is merely being questioned for information.
 3. The principal shall ask the law enforcement officer to delay the interview or conduct the interview away from school. In general, it should not be necessary to conduct an interview in school unless the matter involves
 - a. A crime committed in school or
 - b. An investigation that would be compromised without the interview in school or
 - c. An endangerment to the lives or safety of pupils or other persons.
 4. The principal shall notify the pupil's parent of the interview before it begins. The pupil may be questioned in the absence of the parent only if the parent refuses to attend or cannot be reached after all reasonable efforts at notification have failed.
 5. If the interview is to be conducted in school, the principal shall call the pupil to his or her office and shall remain present throughout the interview.
 6. If the law enforcement officer has not done so, the principal shall inform the pupil that he or she is not required by law to answer questions.

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7. If the police officer has not done so, the principal shall inform the pupil that he or she may request the presence of an attorney. If the pupil or his or her parent so requests, the interview will be terminated pending the participation of the pupil's attorney.
8. The principal shall make it clear to both the law enforcement officer and the pupil that his or her presence is for the protection of the pupil, not to assist the interview process. The principal shall
 - a. Neither encourage nor discourage the pupil in his or her response to questioning nor counsel the pupil in any way;
 - b. Prohibit the use of threats or pressure of any kind to elicit a response from the pupil;
 - c. Refrain from conducting the interview on behalf of the law enforcement officer; and
 - d. Terminate the interview whenever he or she determines that it is conducted with less than fundamental fairness to the pupil.
9. No school employee shall conduct the interview of a pupil at the direction of a law enforcement officer when the circumstances are such that the law enforcement officer cannot legally question the pupil.

F. Undercover operations

1. The purpose of undercover operations is to identify and remove from school environments those persons who distribute illicit drugs and to impress on all persons that those who violate the drug laws will be subject to arrest, prosecution, and punishment.
2. Undercover operations may be undertaken as part of a comprehensive program designed to deal with substance abuse problems and drug trafficking activities on or near schools. No undercover operation should be permitted to interfere with school substance abuse counseling and educational initiatives.
3. Principals shall cooperate with law enforcement officials in the planning of undercover school operations; principals will cooperate in the conduct of such operations that have been duly approved by the Superintendent and the appropriate law enforcement authorities.

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4. All undercover operations will be planned and conducted so as to maximize their legitimate deterrent benefits while minimizing to the greatest extent possible the risk of disruption to the educational program.
5. A request for an undercover operation, whether submitted by a school administrator or a law enforcement agency, must be directed to the Superintendent. No such request shall be made public. The request should include
 - a. A description of the extent and nature of the suspected drug trafficking activities and
 - b. A confidential plan for the operation that details:
 - (1) The procedures to be taken to provide for the security and safety of the undercover officer;
 - (2) Recommendations of school officials to assure the least disruption of the educational program;
 - (3) Assurances that any information acquired about pupils, not related to the purposes of the operation, will be kept confidential;
 - (4) A list of the school and law enforcement officers who have been apprised of the undercover operation and a chain of command; and
 - (5) School contact persons available on a round-the-clock basis.
6. School employees necessarily involved in the undercover operation shall be briefed about all legal requirements of the operation.
7. Whenever possible, the principal will be informed of the identity of the undercover officer. A school employee who learns that the identity of an undercover officer may be revealed or is compromised should convey that information immediately to the law enforcement agency directing the operation.
8. No undercover officer will

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- a. Encourage or counsel a pupil to purchase or use alcohol or any controlled dangerous substance;
- b. Violate the confidentiality of treatment and substance abuse counselling programs and records;
- c. Discourage a pupil from seeking substance abuse counselling or from reporting his or her dependency on drugs or alcohol;
- d. Participate in drug or alcohol treatment or counselling;
- e. Require a school employee to violate the trust relationship established by the employee with a pupil;
- f. Use or distribute controlled dangerous substances;
- g. Engage in activities that disrupt the educational program;
- h. Engage in or encourage a romantic relationship with a pupil;
- i. Except as may be expressly approved by the officer's superior, bring a firearm to school; or
- j. If the officer takes the position of a school employee,
 - (1) Teach a formal class of instruction without the express permission of the Superintendent or
 - (2) Establish or stimulate a confidential, trust, or counselling relationship with any pupil.

9. Undercover operations are subject to the rules of confidentiality set forth in ¶L.

10. The principal and the Superintendent shall be notified when the undercover operation is concluded.

G. Handling of drugs and drug paraphernalia

1. A school employee, including any substance abuse coordinator or counselor, who seizes or discovers any substance or item believed to be a controlled dangerous substance or drug paraphernalia shall

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immediately notify and turn over the substance or paraphernalia to the school principal.

2. The principal shall immediately notify the Superintendent, who will notify the county prosecutor or a person designated by the county prosecutor to receive such information.
3. The principal shall safeguard the substance or item against further use, loss, or destruction until a law enforcement officer takes custody of it.
 - a. The principal shall place the substance or item in a protective container (such as an envelope or box) and shall seal the container.
 - b. The principal shall record or cause to be recorded on the container or on a document attached to the container
 - (1) A description of the substance or item,
 - (2) The name and signature of the person who found or seized the substance or item,
 - (3) The date, time, and place the substance or item was found or seized,
 - (4) The circumstances under which the substance or item was found or seized, and
 - (5) The name of the pupil or staff member believed to be in possession of the substance or item when it was found or seized.
 - c. The container will be placed in a secure location under lock and key and under the principal's direct control.
 - d. In the event any person other than the principal is permitted access to the substance or item prior to its retrieval by a law enforcement officer, that person shall enter his or her name and signature on the record along with the time and date of inspection and the reason for the access. Access to the substance or item will be permitted only in the presence of the principal.

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- e. The law enforcement officer who takes custody of the substance or item shall be required to sign and date the record to indicate his or her receipt of the substance or item.
4. The principal shall provide to the law enforcement officer who takes custody of the substance or item
 - a. All information concerning the manner in which it was found or seized,
 - b. The identity of all persons who had custody of the substance or item following its discovery or seizure, and
 - c. The identity of any pupil or staff member believed to have been in possession of the substance or item, except that the identity of any pupil or staff member will not be released if that pupil or staff member
 - (1) Voluntarily and on his or her own initiative turned over the substance or item to a school employee and not as the result of questioning initiated by the staff member or following the discovery of the substance or item;
 - (2) Is reasonably believed to have been involved with the substance or item for his or her personal use and not for the purpose of distributing it to others; and
 - (3) Agrees to participate in an appropriate treatment or counselling program.
- H. Notifying law enforcement authorities of suspected violations of the drug abuse laws
 1. A school employee who has reason to believe that a pupil or employee has possessed or has in any way been involved in the distribution of a controlled dangerous substance or drug paraphernalia on or near school property shall report the matter as soon as possible to the principal.
 2. The principal shall promptly notify the Superintendent.

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3. The Superintendent shall notify as soon as possible the County Prosecutor or the law enforcement official designated by the County Prosecutor to receive such information. Such notice will include
 - a. All known information concerning the matter and
 - b. The identity of the person or persons suspected of involvement, except that the Superintendent will not disclose the identity of any pupil or staff member who
 - (1) Has sought treatment or counselling for a substance abuse program voluntarily and not in response to questioning by a school employee or law enforcement officer or following the discovery of a controlled dangerous substance or drug paraphernalia, and
 - (2) Is not currently involved or implicated in drug distribution activities.
 4. All referrals of pupils and employees under this section shall conform to the requirements for confidentiality set forth at N.J.A.C. 6:3-6.6 and in ¶L of this regulation.
- I. Requesting uniformed police attendance at extra-curricular events
1. The principal will supply the law enforcement agency having patrol jurisdiction over his or her school with a calendar of extra-curricular events at which the presence of police officers may be required.
 2. The law enforcement agency will be informed of the date and time of each event and of the anticipated public attendance.
 3. The principal will cooperate with the law enforcement agency in planning adequate police protection as required for deterring illegal drug use and trafficking and maintaining public order and safety.
 4. The presence of uniformed police officers will be required at all major school interscholastic athletic events. The use of uniformed officers at other events, especially those conducted within school buildings, must be approved by the principal, except where the

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County Prosecutor or chief of the law enforcement agency determines the use of uniformed officers is dictated by compelling reasons.

J. Notification of parent

1. The principal will notify the pupil's parent as soon as possible whenever a pupil is arrested or taken into custody for violating any laws prohibiting the possession, use, sale or other distribution of any controlled dangerous substance or drug paraphernalia.
2. The principal will notify the pupil's parent whenever a pupil is interviewed regarding his or her involvement with a controlled dangerous substance, in accordance with ¶E of this regulation.
3. Notification will be by telephone call to the parent's home or place of work. If necessary and advisable, a school employee may be dispatched to deliver notice in person.
4. The principal will make every reasonable effort to reach the parent and will record in writing the date, time, and nature of each such effort.
5. If all reasonable efforts at telephone and personal notification have failed to locate and inform the parent, the principal will notify the parent by registered mail, return receipt requested, sent to the address indicated in the pupil's records.

K. Resolution of disputes

1. A dispute should be directed, in the first instance, to the principal. The principal, in consultation with the district liaison officer, will attempt to resolve the dispute at the most immediate level.
2. A dispute that cannot be resolved by the principal shall be referred to the Superintendent, who shall direct the matter to the chief executive officer of the law enforcement agency.
3. A dispute that cannot be resolved by the chief executive officer of the law enforcement agency will be referred to the County Prosecutor, who will cooperate with the County Superintendent

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toward a resolution of the matter.

4. A dispute that cannot be resolved at the county level will be resolved by the Attorney General.
5. Nothing in this paragraph should be construed as attempting to divest any person of his or her right to take action in a court of competent jurisdiction.

L. Confidentiality

1. All information concerning a pupil's or school employee's involvement in a school intervention or treatment program shall be kept strictly confidential in accordance with §408 of the Drug Abuse Prevention, Treatment and Rehabilitation Act, 21 U.S.C. 1175, and implementing regulations, 42 C.F.R. Part 2.
2. Nothing in this regulation shall be construed in any way to authorize or require the transmittal of any information or records that are in the possession of a substance abuse counselling or treatment program.
3. The principal shall not disclose to law enforcement officers or to any person other than a member of the district substance abuse program
 - a. The information that a pupil or school employee has received or is receiving evaluation or treatment services from the district's substance abuse program or
 - b. Any information, including the pupil's or school employee's identity or information about illegal activity, learned in the course of or as a result of evaluation or treatment services provided by the district's substance abuse program.
4. Undercover operations are subject to the following rules of confidentiality:
 - a. All information about an undercover operation shall be kept strictly confidential, including, but not limited to
 - (1) The request to undertake the operation

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- (2) Information submitted as justification or explanation for the need for a proposed operation, and
 - (3) The identity of the undercover officer.
- b. A school official or employee informed of the operation will disclose no information about the operation without the express permission of the County Prosecutor.
- c. A school official or employee informed of the operation will report immediately to the County Prosecutor any information he or she receives that suggests that
 - (1) The true identity of the undercover officer has been revealed or
 - (2) Any person has questioned the identity or status of the undercover officer as a bonafide member of the school community or
 - (3) The integrity of the operation has been in any other way compromised.
5. Plans for planned narcotics surveillances and routine patrols by law enforcement officers shall be kept strictly confidential by the principal and any other school employee to whom they are reported.
6. Nothing in this paragraph shall be construed to preclude the disclosure of information about illegal activity that was learned by any school employee outside the district's substance abuse program; any such information shall be reported in accordance with ¶G and ¶H of this regulation.

M. Memorandum of understanding

In the event the Board of Education formally enters a memorandum of understanding with a law enforcement agency regarding the reciprocal rights and responsibilities of the school district and the law

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enforcement agency in the matter of planning and conduct of law enforcement operations relating to the use, possession, and distribution of controlled dangerous substances on school property, the terms of that agreement will supersede any conflicting term in this regulation.