

Date Reviewed: Final review December 3rd, 2003

Legal Reference(s): 7 V.S.A. § 1001(4),2

16 V.S.A. 140

18 V.S.A. § 4226,1421 et seq.

VT State Board of Education Manual of Rules & Practices § 2311.2,4200,4300,4312,4313

Federal No Child Left Behind Act of 2001 (PL 107-110)

Controlled Substances Act 21 USC and 812

Individuals with Disabilities Education Act (IDEA) 504

Referenced District #18 Policies 4.14, 6.5, 6.11, 6.17

Section 4.10 Substance Abuse

PHILOSOPHY

Consistent with state and federal laws, District _____ School Directors believe:

1. Every student has the right to a substance free school and that it is the responsibility in general of our communities and specifically of all students, parents and school personnel to work together to achieve this goal.
2. A student's use of substances is detrimental to the education of that student and is likely to be detrimental to the education of other students and to the well-being of the entire school community.
3. Substance abuse and dependency are treatable health problems and that the school's responsibility is to provide preventative education for all students, intervention (identification and referral) for those students using substances, and support for those students attempting to maintain their recovery.

POLICY STATEMENT

In support of this philosophy, the District prohibits the use or possession of potentially harmful substances or any device associated with these substances, on school premises or at school sponsored activities, wherever located. The only exceptions to this policy are medications, authorized in writing in advance by a licensed health-care provider. Any student who is required to take medications during school hours is required to comply with school regulations.

All plans and procedures described in this Policy shall comply with Federal and State laws referenced above, including Vermont State Board of Education Rules 4200, Alcohol and Drugs (policy and program requirements); 4300, Disciplinary Action (suspension, expulsion, due process procedures); 4313, Discipline procedures for students eligible for Special Education Services; and 4312, Discipline procedures for students who are not eligible for Special Education Services, but who may qualify under Section 504 of the IDEA.

DEFINITIONS

A. "Substance" includes any of the following:

1) "Drug":

- a) Means a controlled substance identified in Schedules I, II, III, IV or V of the Controlled Substance Act, 21 U.S.C. § 812 (c); but
- b) Does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision such as school medication policy, in school buildings, on school property and grounds, in school-sponsored vehicles or at school-sponsored events at other sites.
- c) It does mean controlled substances including, but not limited to, cannabis (marijuana); hallucinogens (LSD, psilocybin mushrooms); stimulants (cocaine, amphetamines such as "speed" or Ritalin); depressants (barbiturates, "Quaaludes"); narcotics (opium, heroin); inhalants (nitrous oxide, medical products, or other fume-producing substances); anabolic steroids _or distributed for unauthorized purposes, and counterfeit (look-alike) controlled substances.
- d.) Prescription medication or over-the-counter (OTC) medications, herbal or homeopathic medications for personal use shall be allowed only as per district medication policy, under the supervision of school personnel, with written orders from a physician. Federal, state and local laws shall apply to students and employees alike.
- e.) Drug paraphernalia: equipment or apparatus designed for, or used for the purpose of measuring, packaging, distributing or facilitating the use of drugs.

2) "Tobacco":

In any form (for smoking, chewing, etc.) NOTE: Pursuant to 16 V.S.A. § 140, no person shall be permitted to use tobacco on public school grounds and no student shall be permitted to use tobacco at public school sponsored functions.

3) "Alcohol":

The term alcohol shall be construed to refer to alcohol and alcohol –containing beverages. Alcohol may also include medicinal products such as mouthwash and cold medicine which contain alcohol. If a student is using such a product for medicinal purposes, the medicinal purpose must be reported to the school nurse and the product kept by the nurse during school hours. If the administration discovers the student in possession of such a medicinal product and the nurse has no prior knowledge of the student's medicinal need of the product, the product shall be considered "Alcohol" for the purposes of this Policy.

B. "Substance Abuse":

Means the use of any substance that alters a person's ability to perform physically, intellectually, emotionally or socially.

C. "Suspension":

The student is removed from school property and no teaching services are provided to the student for ten or fewer school days. Students may, at their own initiative, obtain their assignments, complete work on their own and receive credit for such work. Students who are suspended may not participate in school activities or be on

school property without an appointment approved by the principal or his/her designee.

- D. In-school suspensions : the student is removed from classes
- E. “Long Term Suspension”:
 - A suspension of more than ten days imposed by the School Board.
- F. “Expulsion”

Means the removal of a student from the school for the remainder of the school year. The School Board may order a student expelled if, after a hearing, it determines that the student’s conduct makes the student’s continued presence harmful to the welfare of the school. Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school. Also, these definitions may be impacted if the student is disabled, handicapped or suspected thereof. See Section III.

No educational services will be provided to an expelled student; the student shall receive no credit and the student may not be on school property or participate in school activities. However, the School Board may, in its discretion or if required by law, order that services be provided and credit earned.
- G. “Parent(s)”:
 - Means the natural parent(s), legal guardian or custodian.
- H. Student Assistant program (S.A.P.). Counselors in the program offer individual and family support and referral for substance abuse treatment services.
- I. “School Day”:
 - Means a day on which school is in session with students’ present and attending classes.
- J. “Re-entry Plan”:
 - Means any plan developed by school personnel in consultation with the student and parents to promote the well-being of an individual student, his/her re-admission to school, and the well-being of the school environment. It may contain whatever provisions that are consistent with other District policies and State and Federal laws, that are deemed necessary. This includes school sponsored trips and activities.
- K. "Retaliation":
 - Includes but is not limited to, verbal or physical threats, intimidation, assault and/or battery or an attempt to do any of the foregoing on school property, school activities and events.
- L. “Support” is not treatment, it is not the school district’s responsibility to pay for treatment.

I. PROGRAMS AND SERVICES

A. Educational Programs - The District shall provide the following educational programs:

1. School Personnel - an on-going in-service specific to alcohol, tobacco and other drug education for all school personnel. The Department of Education recommends attending a refresher training every five years.
2. Students:
 - Age appropriate Alcohol, Tobacco and other Drug (ATOD) prevention education programs for students in compliance with curriculum guidelines established by the Department of Education.
 - Student Assistance Programs (S.A.P.) offering individual and family support, screening and referral for ongoing treatment services.
3. Parents - Information and training programs.

B. Self-referral for Assistance with Substances.

When a student recognizes that he/she has a problem with substance use and chooses to do something about the problem, the school will cooperate as fully as possible with the student.

A student who seeks the assistance of any staff member shall be offered educational resources, individual or group counseling and/or referral to a community agency. These services shall be provided without consequences providing all these conditions are met:

1. The student is self-referred, not “reported” in violation of school or legal policies.
2. There is no immediate apparent threat of harm to self or others.
3. A commitment is made to develop a rehabilitation plan.

C. In-school Support and Referral System:

Appropriate school personnel shall be available to consult with students whose behavior or performance may indicate a problem with substances, (hereafter “abuse”).

In addition, all school personnel who observe academic, social or personal behavior of a student that may indicate substance abuse would be expected to follow their adopted school’s policy. discuss their observations and concerns with the student.

D. Community Support and Referral System:

The District shall maintain a written referral agreement with a community substance abuse treatment provider. **Under no circumstances shall the District be obligated for financial responsibility for assessment or treatment.** ** How does Special Education Law apply, and 504 accommodations)

The District shall maintain a liaison with the local law enforcement agency for the purpose of obtaining assistance in determining appropriate and effective courses of action when incidents of substance use occur within the school environment.

II. VIOLATION AND CONSEQUENCES OF THIS SUBSTANCE USE POLICY

A. Violation:

It shall be a violation of this policy for anyone to possess, sell, distribute or exchange; participate in a sale, distribution or exchange or attempt to sell, distribute or exchange any substance as defined above on school property (including on buses, at bus stops, or walking to or from school) or at any school sponsored activity, in the United States or foreign country. This also includes anything portrayed as a substance.

It shall also be a violation of this policy for anyone to purchase, use, possess, be under the influence of substances as defined above or to possess paraphernalia related to substance use or to participate in any related incident on school property (including buses, at bus stops or walking to or from school) or at any school sponsored activity in the United States or a foreign country.

It shall also be a violation of this policy and other applicable School District policies for anyone to retaliate in any way against any person who may or has participated or cooperated in an investigation of the above violations. The District considers retaliation a very serious matter and it will be the basis of separate disciplinary action.

A student suspected of a violation will be expected to comply with a school and/or police investigation.

B. Consequences:

The consequences for all violations of the policy, except retaliation, shall be twofold, namely disciplinary and socially rehabilitative.

All disciplinary action shall afford the student and parent/guardian the opportunity for an informal hearing before a designated school official. This informal hearing shall comply with the requirements of due process, namely:

- Inform the student of the charges against him/her
- Explain the evidence
- Give the student an opportunity to tell his/her side of the story
- Explain the consequences

Following the informal hearing, the school official shall provide the parent/guardian with a written decision including an outline of the consequences and recommendations.

However, when a student's conduct or condition is deemed to be an immediate threat to himself or herself, others, property or the educational environment, the student may be immediately suspended pending a due process hearing to be held as soon as possible thereafter.

C. Specific Violations and Consequences: (See Section IIA for the complete definition of a violation). **Note: Violations and consequences are cumulative throughout a students' career.**

1. **Sale, Distribution or Exchange of Substances Governed by this Policy**

Consequences - All of the following will occur:

- Suspension for ten school days;
- Local law enforcement agencies will be notified.
- Recommendation to the School Board for expulsion (the following procedure will be followed):
 - The School Board will convene a hearing within ten school days of the suspension period.
 - All parties shall be entitled to representation by counsel at their own expense.
 - Upon conclusion of the hearing, the Board will make its decision.

The student and parent shall be notified prior to the beginning of the first school day after the ten school day suspension and a written decision shall follow.

In no case shall a limited expulsion from school result in a penalty that is less severe than the one imposed for a second violation.

- Referral to the Student Assistance Program (S.A.P.) counselor for an initial screening. the S.A.P. counselor will make a referral for appropriate services, if necessary. Should the student need an assessment they must show proof of an appointment within two weeks of the infraction. The school/district shall not be responsible for the cost of treatment.
- A re-entry plan will be developed by appropriate service providers, school personnel in consultation with the student and parents/guardian. The student must demonstrate a good-faith effort to comply with the plan or the administration, at its discretion, may refer the matter to the School Board for further disciplinary action.
- Athletic eligibility affected based on school procedures.

2. Purchase, Use, or Possession of a Substance Governed by this Policy; Being Under the Influence of Same; Possession of a Reasonably Related Substance-Abuse Device; Participation in a Related Incident; or Refusal to Cooperate with an Investigation.

Consequences: Local law enforcement agencies will be notified.

First Violation: All of the following will occur:

- Suspension for up to a maximum of ten school days. The School Administration shall determine the length of suspension depending on the nature of the infraction and the student's cooperation once it is discovered
- Before the student may return to school, he/she must provide proof of a scheduled appointment with the Student Student Support Team ("S.S.T.") The student's suspension will be continued until demonstration of the appointment is provided or ten school days is reached, whichever occurs first. If the student fails to provide demonstration of the above-referenced option, the Administration, at its discretion, may refer the matter to the School Board for further disciplinary action.
- Referral to the S.S.T. for screening and referral to treatment services if appropriate.
- A re-entry plan will be developed by school personnel in consultation with the service provider, student and parents/guardian. The student must demonstrate change to comply with the plan or the administration, at its discretion, may refer the matter to the School Board for further disciplinary action.
- Athletic eligibility affected based on school procedures.

Second Violation: All of the following will occur in addition to the above conditions.

- Suspension for ten school days
- Referral to the S.A.P. for screening and referral to treatment services if appropriate.
- A re-entry plan will be developed by school personnel in consultation with the student and parents/guardian. The student must demonstrate a good-faith effort to comply with the plan or the administration, at its discretion, may refer the matter to the School Board for further disciplinary action.
- Athletic eligibility affected based on school procedures.

III. STUDENTS WITH DISABILITIES OR STUDENTS SUSPECTED OF BEING DISABLED (ask for Legal opinion on this piece.)

When disciplining students who receive or are eligible for services under the Individual with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act ("§ 504"), or similar passages in State law, the District will comply with such laws, including but not limited to the IDEA, the 1997 Amendments to the IDEA, § 504 and applicable Vermont state statutes and regulations. If the local police Department or other appropriate law enforcement agency is notified regarding a suspected violation of law and the student has a disability, the District shall forward copies of the student's special education and disciplinary records to the

law enforcement agency for its consideration in responding to the matter of a reported crime or if necessary to comply with a court order or subpoena.

IV. SEARCH AND SEIZURE

District policy provides for the school to handle any substance related incident until the student has been discharged to the parent, guardian, social service, medical worker, and/or law enforcement agency. A student may be searched, as their lockers are school property these too may be search, as well as their backpack, car and other bags brought to school.

Driver's Education Policy regarding substances:

While enrolled in High School students cited for motor vehicle, substance violations by a law enforcement officer will be prevented from enrolling in or dropped from Driver's Education.

Students enrolled in Driver's Education who are observed or known by a driver education teacher, school administrator or police officer to be driving without an appropriately licensed adult will be dropped from the course.

While enrolled in High School, students suspended from school for possession, use or sale of substances will be prevented from enrolling in or dropped from Driver's Education.