



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 5140

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CATEGORY: **Support Services, Health and Safety**

EFFECTIVE: **7-12-89**

SUBJECT: **Drugs, Narcotics, Alcohol--General**

REVISED: **4-3-2000**

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing substance abuse and possession of marijuana.
2. **Related Procedures:**
 - Searches and seizures by school officials..... 5065
 - Release of student information..... 6525
 - Juvenile arrests, interviews, removal from school
(temporary custody)..... 5060
 - Suspension..... 6290
 - Expulsion..... 6295

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: F-6000, G-1000, G-1001, G-1003, H-6000, H-7920, I-1360, I-4400; Education Code Sections 48900, 48909, 49072; Business and Professions Code Sections 4160, 25608; Health and Safety Code Sections 11007, 11355, 11357, 11359, 11360(a), 11360(b), 11364, 11365, 11366, 11550; Narcotic Enforcement Procedure Department Instruction 3.19; Vehicle Code Section 23151.
2. **Procedure 5140 replaces Emergency Procedures EP 36 dated July 12, 1989, and EP 38 dated July 12, 1989.** No other revisions have been made at this time.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Legal Services Office.
2. **Authority for Suspension or Expulsion.** Education Code Section 48900 gives the superintendent or principal of a school the authority to suspend and/or recommend for expulsion any student who unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, or unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

3. **Notice of Drug Violations to Superintendent.** When a petition is requested in juvenile court or a complaint filed in any court alleging that a minor of compulsory school attendance age or any student currently enrolled in a public school in a grade to and including Grade 12 is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, the district attorney shall, within 48 hours, provide written notice to the superintendent of the school district of attendance and to the student's parent or guardian. (Education Code Section 48909)

Procedurally, the School Police Services Department notifies the Comprehensive Health and Wellness Department of juvenile drug-related contacts received from the city policy department; Comprehensive Health and Wellness Department contacts individual schools.

4. **Alcoholic Beverages on School Grounds.** It is a misdemeanor for any person to possess, consume, sell, give, or deliver to any other person, any alcoholic beverage in any public school house or on any public school grounds unless the school district has granted authorization. (Business and Professions Code Section 25608)
5. **Release of Student Information.** Regulations governing release of student information, including limitations, are contained in Procedure 6525.
6. **Parent or Guardian Views on Actions Involving Student Discipline.** Parents or guardians of a student who has been expelled, suspended, or otherwise disciplined may include a written statement of their views on the matter in student's official records. (Education Code Section 49072)
7. **Simple Possession of Marijuana**
- a. Possession of *not more than 28.5 grams*, other than concentrated cannabis, is a misdemeanor. An adult 18 years of age or older *MUST* be released on an Adult Field Release Citation upon presentation of satisfactory evidence of identity and giving his/her written promise to appear in court, and shall *not* be subjected to booking. Maximum monetary punishment upon a first conviction is \$100 fine. (Health and Safety Code Section 11357[b])
 - b. Possession of *not more than 28.5 grams* of marijuana, other than concentrated cannabis, is a misdemeanor. Maximum punishment upon a first conviction is six months in jail and a \$500 fine. (Health and Safety Code Section 11357[c])

- c. Possession of any concentrated cannabis (defined as "the separated resin, whether crude or purified, obtained from marijuana") is a felony. (Health and Safety Code Section 11357[a])
- d. Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, is guilty of a misdemeanor and shall be subject to:
 - (1) A fine of not more than two hundred fifty dollars (\$250) upon finding that a first offense has been committed.
 - (2) A fine of not more than five hundred dollars (\$500), or committed to a juvenile hall, ranch, camp, forestry camp, or secured juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed. (Health and Safety Code Section 11357[d], [e])
- 8. **Possession of Marijuana for Sale.** Possession of marijuana in amounts or under circumstances suggesting that it is intended for sale is a felony. (Health and Safety Code Section 11359)
- 9. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any material in lieu of a controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison. (Health and Safety Code Section 11355)
- 10. **Transporting, Selling, Giving Away Marijuana**
 - a. Selling or offering to sell, or importing into this state, marijuana *in any quantity* is a felony.
 - b. Giving away, offering to give away, or transporting *not more than 28.5 grams* of marijuana, other than concentrated cannabis, is a misdemeanor. Offender *MUST* be released on an Adult Field Release Citation upon presentation of satisfactory evidence of identity and giving his/her written promise to appear in court and shall *not* be subjected to booking. (Health and Safety Code Section 11360[b])

11. **Possession of Marijuana Paraphernalia.** Amended Health and Safety Code Section 11364 eliminates possession of marijuana paraphernalia as chargeable offense. Items used for smoking or injecting marijuana are not unlawful. They may not be seized except as evidence supporting another criminal charge such as possession of marijuana. Possession of paraphernalia used for injecting/smoking heroin or other controlled substances *is* unlawful.
12. **Being in a Place Where Narcotics Are Being Used.** Amended Health and Safety Code Section 11365 eliminates marijuana from its provisions. Under this law, visiting a place where marijuana is being used is not unlawful. Being in a place where *other* controlled substances are being used *is* unlawful. Maintaining a place for the purpose of unlawfully using or selling marijuana *is* a felony. (Health and Safety Code Section 11366)
13. **Being Under the Influence of Marijuana.** Amended Health and Safety Code Section 11550 eliminates marijuana from its provisions. Under this law being under the influence of marijuana is not unlawful. However, if a person is under the influence of marijuana or any other drug to the point where he/she is unable to provide for his/her own safety or the safety of others, and is found in a public place, Penal Code Section 647(f) is applicable. Driving while under the influence of marijuana or any other drug is unlawful (Vehicle Code Section 23151). Under Health and Safety Code Section 11550, it is unlawful to be under the influence of heroin, but that section does *not* make it unlawful to be under the influence of barbituates.
14. **Impounding of Evidence.** *ALL* marijuana coming to the attention of officers shall be impounded without exception, in accordance with the policy established in Department Instruction 3.19 of Narcotic Enforcement Procedures. Marijuana must be impounded prior to securing for the day.
15. **Juveniles.** Mandatory release provisions of the marijuana law do not apply to juveniles. The policy, with respect to handling of juveniles, is unchanged.

D. IMPLEMENTATION

1. **Suggested Management of Students Who Are Under the Influence on School Grounds**
 - a. Any person having knowledge of a student under the influence on school grounds should notify principal or designee immediately; school nurse also should be notified.

- b. Principal or designee should report the incident to the School Police Services Department, which provides emergency assistance in any cases where the safety and welfare of students or employees, or damage to school property, is threatened.
- c. City police will dispatch either a juvenile officer or a uniformed patrol officer to a school immediately following notification. Parental contacts are made by police following their investigation. The school is encouraged to make every reasonable effort to contact parents concurrently with city police notification.
- d. The most immediate concern for any student under the influence is the student's health and welfare. It may be urgent that medical attention be obtained as soon as possible; usually the fastest response is obtained by telephoning paramedics ("911").
- e. If principal desires, a school suspension should be processed. (Procedure 6290.)
- f. In planning for return of a student to school, every effort should be made to secure medical clearance as part of any study of the situation.
- g. Placement at a school other than school at which the incident occurred can be arranged through a district counselor.
- h. If continued counseling appears desirable for a student, referral may be made directly to the district counselor or to a social concerns teacher/counselor. (Referral to a social concerns teacher/counselor should be made through the Comprehensive Health and Wellness Department.)

E. FORMS AND AUXILIARY REFERENCES

F. REPORTS AND RECORDS

G. APPROVED BY



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For the Superintendent of Public Education