

New Material E.2.16.2 Medical Cannabis in Schools

This policy was developed in accordance with NMSA 22-33-5 and NMAC 6.12.10

This policy is to provide guidance and requirements for the possession, storage, and administration of medical cannabis to qualified students for use in school settings.

NMSA 22-33-5 and NMAC 6.12.10 and this policy shall be the subject of appropriate training to all school personnel on medical cannabis policies.

Definitions (from NMAC 6.12.10.7):

A. "Cannabis" means all parts of the plant cannabis, including any and all varieties, species, and subspecies of the genus cannabis, and excludes the plant cannabis sativa L. and any party of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis.

B. "Cannabis producer" means a person or entity licensed by the Department of Health to possess, produce, dispense, distribute, and manufacture cannabis and cannabis products and sell wholesale or by direct sale to qualified patients and primary caregivers.

C. "Certifying practitioner" means a health care practitioner who is licensed in New Mexico to diagnose a qualified patient and recommend medical cannabis as a course of treatment.

D. "Designated school personnel" means a school employee whom the Executive Director authorizes to possess, store, and administer medical cannabis to a qualified student in accordance with the provisions of Section 22-33-5 NMSA 1978, NMAC 6.12.10, the Lynn and Erin Compassionate Use Act, and New Mexico Department of Health rules regarding the Lynn and Erin Compassionate Use Act.

E. "Hemp" means the plant cannabis sativa L. and any part of the plant, whether growing, or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis, and is exempt from the New Mexico Controlled Substances Act.

F. "License" means written authorization to licensees issued by the New Mexico Department of Health to implement the provisions of Section 22-33-5 NMSA 1978, NMAC 6.12.10, the Lynn and Erin Compassionate Use Act, and New Mexico Department of Health rules regarding the Lynn and Erin Compassionate Use Act.

G. "Licensee" means a person or entity issued a license by the New Mexico Department of Health pursuant to the Lynn and Erin Compassionate Use Act and includes school districts, local school boards, locally-chartered charter schools, state-chartered charter schools, and governing bodies of state-chartered charter schools.

H. "Licensee representative" means designated school personnel who work for a licensee and possess, store, or administer medical cannabis to a qualified student in a school setting.

I. "Medical Cannabis" means cannabis:

- (1) Recommended for treatment of a debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner;
- (2) Dispensed by a cannabis producer that has received approval from the New Mexico Department of Health to conduct sales of medical cannabis;
- (3) Is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:
 - (a) May be safely divided into measurable doses;
 - (b) is not an aerosol product consumable through smoking or in particulate form as a vapor or by burning;
 - (c) is not a food or beverage product;
 - (d) is not a salve, balm, or other topical product;
 - (e) Does not require refrigerated storage; and
- (4) Is provided to the school in package or container clearly labeled with:
 - (a) The student's name and date of birth; and
 - (b) The dosage allotment.

J. "Primary caregiver" means a parent or legal guardian.

K. "Qualified patient" means a person who has:

- (1) Been diagnosed by a certifying practitioner;
- (2) Received written certification from a certifying practitioner; and
- (3) Is currently enrolled in the New Mexico Department of Health's medical cannabis program and has received a current and valid registry identification card pursuant to the Lynn and Erin Compassionate Use Act.

L. "Qualified student" means a student who demonstrates evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis.

M. "Self-administering" means the ingestion of medical cannabis by a qualified student without the presence of a primary caregiver or designated school personnel in a school setting.

N. "School" means the Public Academy for Performing Arts.

O. "School setting" means any of the following locations during a school day:

- (1) A school building;
- (2) A school bus used within the state during, in transit to, or in transit from a school-sponsored activity;
- (3) A public vehicle used within the state during, in transit to, or in transit from a school-sponsored activity in the state; or
- (4) A public site in the state where a school-sponsored activity takes place.

P. "Written certification" means a statement written by a qualified student's certifying practitioner:

- (1) In a qualified student's medical rec or in the written treatment plan statement;
- (2) Certifying that the qualified student has a debilitating medical condition pursuant to the Lynn and Erin Compassionate Use Act;
- (3) Certifying that the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student; and
- (4) Signed by the certifying practitioner.

Q. "Written treatment plan" means a document developed by the primary caregiver in collaboration with the certifying practitioner that:

- (1) Includes the certifying practitioner's diagnosis and description the qualified student's debilitating medical condition per the Lynn and Erin Compassionate Use Act;
- (2) Describes the plan for recommended treatment with medical cannabis, including:
 - (a) The recommended dosage allotment;
 - (b) The recommended frequency of administration of medical cannabis in a school setting; and
 - (c) Is signed by the primary caregiver and the certifying practitioner.

Administration, Possession, and Storage

Administration:

1. The Executive Director shall solicit for staff volunteers to be identified as designated school personnel who will be responsible for the possession, storage, security, and administration of medical cannabis to a qualified student. The designated school personnel will be identified in writing by the Executive Director.
 - a. The school shall not require any employee to store or administer medical cannabis.
 - b. If no school employees volunteer to be designated school personnel or no designated school personnel are available, the primary caregiver will transport, store, and administer the medical cannabis.
2. The primary caregiver will provide to the school
 - a. Demonstrate evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act. (i.e. a copy of the written certification from the New Mexico Department of Health.)
 - b. Provide a written certification.
 - c. Provide a written treatment plan, using the written treatment form posted on the Public Education Department's website.
 - d. Submit to the school a written release of liability that:
 - i. Releases from civil liability the following persons and entities for acting in accordance with the provisions of Section 22-33-5 NMSA 1978 and NMAC 6.12.10, as well as the Lynn and Erin Compassionate Use Act and applicable Department of Health rules:
 1. The Albuquerque Public School (APS) district, APS school district personnel and volunteers, APS schools, APS school personnel and volunteers, APS school boards, and APS school board members; and
 2. The Public Academy for Performing Arts (PAPA) charter school, PAPA school personnel and volunteers, PAPA governing council, and PAPA governing council members;
 - ii. Releases the persons and entities listed in the paragraph above, from any liability and reimbursement claims for costs associated with accidental spillage or waste of medical cannabis; and
 - iii. Acknowledge that the qualified student shall not be entitled to the implementation of the provisions of Section 22-33-5 NMSA 1978 and NMAC 6.12.10, as well as the Lynn and Erin Compassionate Use Act and applicable Department of Health rules, outside of this state.

- e. Submit to the school a signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the New Mexico Department of Health's website, that permits the school to obtain current information from the Department of Health regarding the enrollment status of the qualified student in the Department of Health's medical cannabis program. The HIPAA authorization form shall be retained as a medical record.
 - f. Indicate that a written certification and a written treatment plan shall be valid for no more than one year from the date of issuance and a new written certification and plan shall be valid for one school year only.
 - g. The written certification shall be presented to the school at time of diagnosis, enrollment, or prior to, the beginning of the school year for which the written certification and written treatment plan shall apply.
 - h. Pick up from the designated school personnel any unused medical cannabis at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first.
 - i. The written certification and a written treatment plan, a new release from liability, and a new package or container with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment, is required upon enrollment in a new public school following disenrollment, withdrawal, transfer, or graduation from another school.
3. The primary caregiver must work with the Executive Director to create an administration plan for administration on the school campus. The administration plan outlines time, place, and manner of administration for the student.
 - a. Administration of medical cannabis will be in accordance with the written treatment plan.
 - b. Administration of medical cannabis shall not be conducted in a manner that creates disruption to the education environment or causes other students to be exposed to medical cannabis.
 - c. The administration of medical cannabis in school settings during the school day will be by the primary caregiver or designated school personnel if a designated school personnel is available.
 - d. Administration of medical cannabis after school hours for on campus school activities will be by the primary caregiver or designated school personnel if a designated school personnel is available.
 - e. Students will not possess, store, or self-administer medical cannabis in a school setting.
4. The administration of medical cannabis during outside venues used for off-campus school activities will not be conducted by the school as the Lynn and Erin Compassionate Use Act does not prohibit criminal prosecution for use of cannabis in public places.
5. Student participation in outside organization's activities is not considered a school setting or school-sponsored activity. Examples include: all state choirs.
6. The school will not transport student medical cannabis through Federal check points, such as Border Patrol check points, or airport security.
7. The school will not store, transport, or administer medical cannabis outside of the State of New Mexico.

Possession:

1. Students are banned from possession, use, distribution, sale or being under the influence of a cannabis product in any manner that is inconsistent with the provisions of this policy for qualified use for medical cannabis or the Lynn and Erin Compassionate Use Act.
2. The primary caregiver will bring to the school and provide to the designated school personnel the qualified student's medical cannabis. A receipt will be provided to the primary caregiver.
 - a. The medical cannabis will be provided in a new package or container with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment.
3. The designated school personnel will return to the primary caregiver all unused medical cannabis no later than the end of each school year, disenrollment, withdrawal, transfer, or graduation. This return shall be at the school and a receipt will be provided to the designated school personnel,
 - a. Medical cannabis not picked up by the primary caregiver will be delivered to law enforcement for disposal.
4. In the event of spillage or waste of medical cannabis, the clean-up and destruction will be witnessed and notification will be provided to the primary

Storage:

1. The Executive Director will establish a secure location, accessible only by designated school personnel, with a locked storage container for the storage of medical cannabis.
2. A maximum of one month's supply of medical cannabis will be maintained by the school.

STUDENTS:

1. The school shall not discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.
2. The school shall not deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

Restrictions, Limitations, and Liability

Students are banned from possession, use, distribution, sale or being under the influence of a cannabis product in any manner that is inconsistent with the provisions of this procedural directive for qualified use for medical cannabis or the Lynn and Erin Compassionate Use Act. A student who makes a fraudulent representation to a school or law enforcement officer about the person's participation in a medical use of cannabis program may be denied permission for future access to medical cannabis in a school setting. Participation in the use of medical cannabis does not relieve the qualified student from disciplinary action for activities not authorized in the Lynn and Erin Compassionate Use Act.

A school or the district may not discipline a student who is a qualified student solely on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school.

The school shall not require any employee to store or administer medical cannabis.

New Material Student Diabetes Management

References:

NMAC 6.12.11

Sections 9-24-8, 22-2-1, 22-2-2, and 22-34-1 through 22-34-9 NMSA 1978.

Definitions used in this Student Diabetes Management policy are those found in NMAC 6.12.11.7

1. The Executive Director is responsible for the implementation and administration of the Student Diabetes Management program.
2. The Executive Director will ensure the annual diabetes training for the school designated diabetes care personnel will be provided by a licensed school nurse or licensed health care practitioner with expertise in diabetes.
3. The Executive Director will ensure that the annual training outlined in NMAC 6.12.8.F will be provided to all school personnel with a primary responsibility for supervising a student with diabetes during some portion of the school day, including activity drivers responsible for transporting a student with diabetes.
4. A minimum of two school designated diabetes care personnel are required. A school designated diabetes care person is required if a student with diabetes is attending a school sponsored activity, trip, extended offsite excursion, or extracurricular activity in which the student with diabetes is participating.
 - a. Volunteers from the staff to serve as the school designated diabetes care personnel will be solicited and trained annually and additional volunteers will be solicited and trained if less than two school designated diabetes care personnel are available.
 - b. Participation is voluntary and no school or governing body will take action against any staff member who does not volunteer to be designated.
 - c. The parent or guardian of the student with diabetes may volunteer to assume the official responsibility of diabetes care for a student diagnosed with diabetes should the parent or guardian be attending a school sponsored activity, trip, extended offsite excursion, or extracurricular activity in which the student with diabetes is participating.
5. The Diabetes Medical Management Plan is required to be submitted to the school annually if the parent or legal guardian of the student with diabetes who seeks diabetes care while at school (either utilizing the schools diabetes care personnel or by student self-administration). The school shall review and implement the plan.
 - a. Upon written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, and upon demonstrated proficiency as certified by the parent, guardian, or medical professional, a student shall be permitted to perform diabetes self-management.
 - i. A student with diabetes and a diabetes medical management plan shall be permitted to self-manage in any area of the school or school grounds so long as it does not disrupt the education environment of other students.
 - ii. A student with diabetes and a diabetes medical management plan shall be permitted to possess on the student's person at all times all necessary supplies and equipment to perform these monitoring and treatment functions.
 - iii. If a student's parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

6. Students diagnosed with diabetes shall not be restricted from attending any school on the basis that the student is diagnosed with diabetes, the school does not have a full-time school nurse, or the school does not have trained diabetes care personnel.
 - a. The school shall not require nor compel parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities.
7. Reports regarding student diabetes management required by PED and/or APS will be prepared and submitted to the Governing Body for approval prior to submitting to the PED and/or APS.

New Material xxx Vehicle Use Policy

General

For the purposes of this policy, a "PAPA vehicle" means any motorized vehicle or trailer that will be operated on public streets/property, which is owned, leased, rented, or otherwise operated by PAPA. Vehicles are considered as an extension of school property.

Activity drivers are drivers of PAPA Vehicles that transport students for planned school-sponsored activity trips.

The school will not provide home-to-school or recurring transportation that is part of the school day.

The Executive Director shall designate a Transportation Administrator who is responsible for the administration of the PAPA vehicles.

Student discipline procedures will apply during student transportation in PAPA vehicles.

PAPA vehicles are for official use only, vehicles will not be used for personal business.

Drivers' Licenses

A valid New Mexico driver's license is required to operate all PAPA vehicles.

School administration will conduct a Motor Vehicle Department query to determine the validity of the operator's driver's license.

The driver's license status will be checked with the initial and subsequent background checks. The Executive Director may require additional driver's license check at any time.

Driver's License Suspension

Should an employee have his/her driver's license suspended or revoked for whatever reason they shall not operate a PAPA vehicle. The employee shall notify the Executive Director of the license suspension or revocation.

Authorization to Operate PAPA-Owned Vehicle Minimum Requirements

All drivers of PAPA vehicles shall complete the course of instruction outlined in the Public Education Department's School-owned Activity Vehicle/SUV Driver training and a Defensive Driver Course. These courses shall be repeated every two years. All drivers shall have completed and pass a DOT approved

physical. Failure to complete these courses shall result in suspension of PAPA vehicle driving privileges until the training is completed.

Activity drivers shall provide the documentation and shall complete the courses of instruction outlined in NMAC 6.41.4.9.O.

All activity drivers shall be enrolled in a random drug testing program.

Loss of PAPA Vehicle driving privileges:

1. The person's driving license is currently suspended, revoked, or otherwise disqualified;
2. for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. Online programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;
3. for five years receive a suspension or revocation of their driver's license for any serious traffic offense;
4. for three years receive convictions for more than three serious traffic offenses;
5. if they receive any convictions pursuant to Paragraph (2) of Subsection P of 6.41.4.9 NMAC; or
6. if they do not complete the previous semester's required in-service training; to become eligible again,

General Operations

The driver shall obey all applicable traffic laws, including seat belt requirements, texting and phone use while driving, and all applicable laws related to alcohol and drug use and possession.

Tobacco use/vaping shall be prohibited in PAPA vehicles.

All vehicle damage, theft, and accidents shall be immediately reported to the Executive Director, and law enforcement if there is property damage, injuries, or involve another vehicle.

Drivers shall report to the Executive Director any citations or tickets received while in a PAPA vehicle. Drivers are responsible to pay any fines associated with citations or tickets while in a PAPA vehicle – school funds shall not be used to pay fines.

Vehicle maintenance needs shall be reported to the Transportation Administrator.

Vehicle Utilization

The Transportation Administrator will develop procedures for the assignment, use, sign-out/sign-in, and maintenance/fueling of PAPA vehicles.

PAPA vehicles will not be assigned to individuals or used as take-home vehicles.

A vehicle fund will be established and each user will pay a per mile fee into the account for the vehicle maintenance and upkeep. The per mile fee will be the IRS standard mileage business rate. Fuel costs supported by receipts will be deducted from the per mile fee.

Grant or Activity funds will be used for vehicle use related to activities or grant authorized activities.

References:

NMAC 6.41.4 Standard for Providing Transportation for Eligible Students