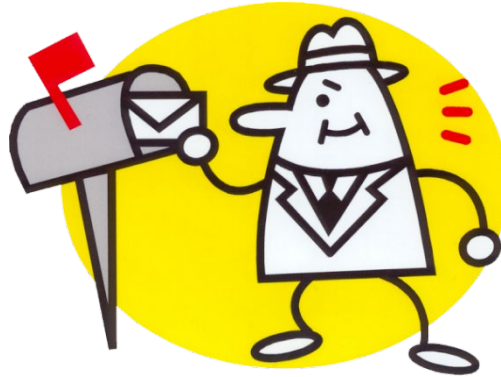


LEGAL MAILBAG – FEBRUARY 22, 2024



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As a school administrator, I am writing to seek guidance on a pressing issue that has arisen in our school community since the legalization of marijuana in our state of Connecticut.

In recent months, we have noticed a concerning increase in the smell of marijuana around our school premises, particularly during student arrival and dismissal times. Parents dropping off their children often emit a strong odor of marijuana, suggesting that they may have either consumed it recently or are carrying it with them. This situation has become increasingly problematic as the smell lingers in our elementary offices and hallways for hours, leading to complaints from other parents.

When we reached out to local law enforcement for support and guidance on how to address this issue, we were met with limited assistance. The police have simply shrugged off our concerns, citing the legality of marijuana in our state. Moreover, when we inquired about the safety of releasing a student to a parent who strongly smells of marijuana, we received no clear guidance. Unlike alcohol, where impairment is more readily identifiable, there is a lack of clarity on what constitutes marijuana impairment and how to recognize it.

This leaves us in a difficult position as educators. We are committed to ensuring the safety and well-being of our students, but we feel ill-equipped to address this issue effectively without proper guidance. We understand that the legalization of marijuana brings new challenges, but we believe there should be clear protocols in place to protect children in school environments.

Therefore, we are reaching out to Legal Mailbag in the hope of receiving guidance on how to navigate this situation. Are there any legal guidelines or resources available to help us address concerns related to marijuana use around school premises? What steps can we take to ensure the safety of our students and uphold a drug-free environment in our school community?

Signed,
Sincerely Confused in CT

Dear Confused:

Legal Mailbag appreciates your excellent question and wishes that Legal Mailbag could provide an excellent answer. Unfortunately, there is no good answer that Legal Mailbag can provide to this vexing situation. But Legal Mailbag is never at a loss for words and offers the following for your consideration.

We start by confirming that you are correct that there is no reliable test for impairment from marijuana use. The available drug tests can only detect the presence of THC (Tetrahydrocannabinol) in the bloodstream. Given that THC can remain detectable for weeks after marijuana use, such tests do not measure impairment. We may hope for technological innovation to provide a detection tool in the future, but we are not there yet.

That said, student safety is a priority, and, as unpleasant as it may be, it is necessary to confront a parent if school officials believe that the parent arriving at school to drive a student home is impaired so as to put the child at risk. In such matters, the odor of marijuana is only the start. Impairment of parents that could put a student at risk on the ride home could arise from various causes – use of alcohol, use of marijuana, use of other illegal drugs, or even an adverse reaction with legal drugs. Legal Mailbag, with expert guidance from Shipman & Goodwin attorney Sarah Westby, advises you and your colleagues to document any signs of intoxication in addition to odors, including slurred speech, bloodshot eyes, delayed reaction time, drowsiness, etc., and to report any such incidents to law enforcement. If the impairment appears severe, you and your colleagues may even need to insist that the student remain in your custody until law enforcement arrives (as would be the case if a parent/guardian picking up a child appears to be drunk).

In addition, your school may wish to address this issue head-on through a parent communication. Such a letter could describe the concern candidly. It could state that the school has received complaints about the detectable odor of marijuana on some parents entering the school, and that the school wishes to address the problem. The communication could warn parents that possession of marijuana on school property is prohibited and that possession of one-half ounce or more on school property is a crime. Similarly, you can warn parents that driving while under the influence of marijuana is also a crime. You may also wish to let parents know that school officials will call law enforcement if a parent who is evidently impaired seeks to pick up his or her child.

Whether to send out a communication is not a legal judgment, and Legal Mailbag must leave that decision to you and your colleagues. However, sometimes it is best simply to call out the problem, and some parents may even applaud you in doing so.