

Lions, Tigers, and (Gummy) Bears, Oh My! How Will Schools Deal with CBD?

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The rise of ingestible CBD products and the attractiveness of those products to minors has left school districts scrambling for how to regulate CBDs without infringing upon student rights.

Gummies and candy that include the cannabidiol (CBD) strain of the cannabis plant - which also is the plant behind the creation of marijuana - have been sprouting up at convenience store counters throughout Pennsylvania. And while lawmakers and regulators struggle to keep up with the booming ingestible rage, schools are left with little guidance to protect their campuses, both physically and legally.

Hemp and marijuana are both derived from the cannabis plant, but are differentiated based on their levels of tetrahydrocannabinol (THC). Plants with less than 0.3% THC are considered hemp and plants with 0.3% THC or more are considered marijuana. THC is the cannabinoid that is responsible for the psychoactive "high" associated with marijuana, while CBD is non-psychoactive. Both THC and CBD can be found in both strains of the cannabis plant. In December, the U.S. House and U.S. Senate passed the 2018 Farm Bill, which removed hemp from the list of Schedule-1 controlled substances, making hemp legal to sell and purchase.

However, the bill reserved the right for the federal Food and Drug Administration (FDA) to continue to regulate the use of hemp and the CBD derived from it. [Some confusion remains regarding regulations applicable to the retail sale of certain products.](#) Consumers in some areas are now able to purchase CBD derived from hemp over-the-counter. However, under the Federal Food, Drug and Cosmetic Act, any CBD marketed for cure, mitigation, treatment, or prevention is considered a drug and must be FDA approved. Under the same act, any active agent such as CBD introduced for the purpose of treatment or prevention and consumption must be FDA-approved. To date, there have only been four drugs which contain CBD, or a chemical structure similar to such, that have been FDA approved. All of those must be prescribed by a licensed physician. Any other CBD products that are marketed for treatment or ingestion have not been approved.

Pennsylvania has not yet taken action to regulate over-the-counter sale of CBD products that have not been FDA approved. That leaves consumers able to purchase CBD products throughout the region. These CBD products take on many forms, some of which can be enticing to minors, such as CBD gummies and candy. This has resulted in students bringing these products onto school property, ingesting them, or supplying the products to other students who sometimes unknowingly are ingesting CBD. This has created myriad issues for school administrators with very little in the way of settled guidance.

With the ever-evolving nature of medical marijuana and cannabis-derived products, it is crucial that school districts review existing policies and procedures - including those addressing controlled substances and medications - so that

appropriate action can be taken in the event a situation arises on school grounds. The Pennsylvania Department of Health has [set forth guidance](#) for schools and school districts for addressing use of medical marijuana on school campuses, but have not specifically addressed CBD.

If you are unsure whether your policies and procedures are sufficient to address evolving issues concerning medical marijuana and CBD, or you are looking for additional guidance related to this topic, please contact any member of the [Barley Snyder Education Practice Group](#).

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