

# RUSA

RUTGERS UNIVERSITY  
STUDENT ASSEMBLY

## Report on Marijuana Possession in University Housing

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## *Background*

At the start of the Fall 2016 semester, Rutgers University made changes to policy 10.2.11<sup>1</sup>, the Student Code of Conduct. This change resulted in the immediate removal from housing of any student found in possession of marijuana without due process.

This policy distinguishes between alcohol and other Controlled Dangerous Substances (CDS). It then further categorizes offenses into two subcategories: personal possession and distribution, specifying, “Sanctions may be increased based on the nature/severity of the behavior and/or the previous, disciplinary history of the student and may be modified by the conduct officers or hearing body if adequate mitigating factors are present.”<sup>1</sup>

The Drug-Free Schools and Communities Act<sup>2</sup>, and 34 C.F.R. Part 86, requires higher education institutions receiving any federal financial aid to have “standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students”<sup>2</sup> for which the institution will impose sanctions, however these acts do not include removal from housing.

When making any major changes to University drug policy, the Rutgers Administration must consult with students as per policy 50.2.2.<sup>3</sup> This report will detail some of the effects the policy change has effectuated on the Rutgers community.

## *Marijuana vs. Other Drugs*

Marijuana is a psychoactive drug most commonly used in a dried herbal form that is smoked. Marijuana is among the most common and available drugs both internationally and in the United States.<sup>4</sup>

A study conducted by the *Scientific Reports* reveals the risk of death varies among commonly used substances: “it was discovered that at the level of individual use, alcohol was the deadliest substance, followed by heroin and cocaine.”<sup>5</sup> The study, which compared lethal doses of a given substance with the amount that a typical person uses, concludes that marijuana is about 114 times less deadly than alcohol and is the only studied drug that poses a low mortality risk to its users.

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<sup>1</sup> <http://policies.rutgers.edu/sites/policies/files/00008387.PDF>

<sup>2</sup> Pub. L. No. 99-570, 100 Stat. 3207

<sup>3</sup> <http://policies.rutgers.edu/sites/policies/files/50.2.2-current.pdf>

<sup>4</sup> Schroth Stephen T, et al. “Encyclopedia of Drug Policy: Marijuana.” (2011). *SAGE Publications*, Thousand Oaks, California

<sup>5</sup> Lachenmeier, Dirk W., and Jürgen Rehm. “Comparative Risk Assessment of Alcohol, Tobacco, Cannabis and Other Illicit Drugs Using the Margin of Exposure Approach.” *Scientific Reports* 5 (2015): 8126. PMC. Web. 30 Jan. 2017.

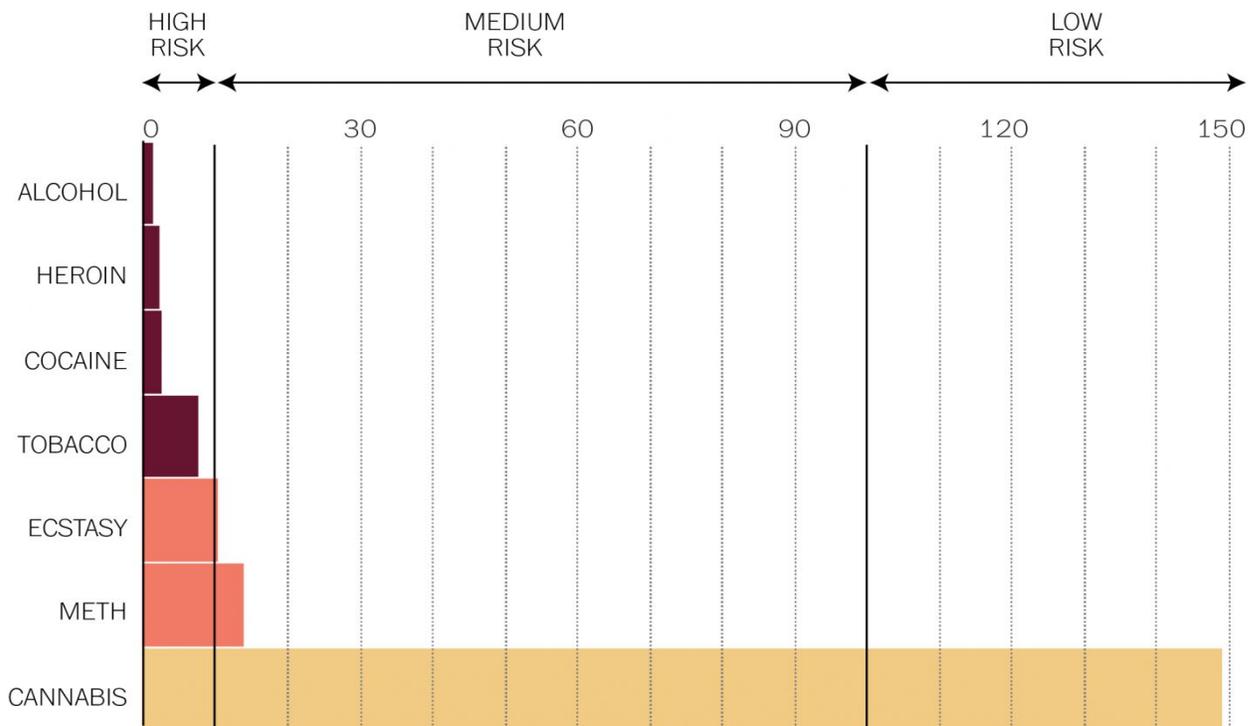
In comparison to other illegal substances, the dangers that marijuana poses are substantially lower; marijuana is also less harmful to human health than alcohol and tobacco (both of which are legal nation-wide). As with other substances, marijuana's health effects depend on the frequency of use, the potency and amount of marijuana consumed and the age of the consumer.

The rate of dependency among marijuana users is significantly lower than users of other drugs (e.x. tobacco, heroin, cocaine, alcohol or stimulants). "The lifetime risk of developing dependence among those who have ever used cannabis was estimated at 9% in the United States in the early 1990s as against 32% for nicotine, 23% for heroin, 17% for cocaine, 15% for alcohol and 11% for stimulants. More than nine-in-ten people who try marijuana don't get addicted to it."<sup>8</sup>

### Section on marijuana use prevalence

## By a wide margin, cannabis is the least risky recreational drug

Ratio between toxic dose and typical human intake



## *Drug Policy History at Rutgers-New Brunswick*

The current drug policy at the New Brunswick Campus calls for immediate relocation of housing and subsequent loss of housing without a refund.<sup>6</sup> After investigation with numerous administrators, the *de facto* policy at the New Brunswick campus is to remove all students arrested for possession of any drug, including marijuana, on or off campus. Relocation is usually immediate and subsequent removal typically occurs after a period of 48 hours. All these actions are taken prior to any opportunity for a student to be afforded any due process through a University Hearing or other administrative remedy. Additionally, this process of removal from housing is applied irrespectively to student's ability to find housing. This severely impacts students who are out-of-state or international students. Although it is possible for a student to request an extension on some of these deadlines, there is no guarantee of an extension. While the university does offer students support groups for finding housing, there is no assistance nor promise of guaranteed alternative housing arrangements before removal from campus or dedicated transitional housing. The current policy was adopted after a tragic drug related incident in the Fall of 2015 when a student was stabbed by another student over an argument involving CDS.

### **Removal from Housing at Rutgers University**

There are 36 cases of students who have been displaced from housing for simple possession charges.

For one student, who asked to remain anonymous, he was given 48 hours to vacate his residence hall "without a conduct hearing or even a physical conversation with the people responsible for [his] removal." Charged for possession of marijuana under 50 grams, this student has been sleeping "in the Livingston Library and [is] currently looking for something off-campus."

Another student, who was charged for a first-time marijuana offense *before* this policy was put into effect, recounted his story: "Before college I was never one to smoke. My parents have always been against the substance thus eliminating all prospects of recreational use within my household. I began to experiment with marijuana in the beginning of my freshman year with my roommate and a few of our friends. One night, around October, about 9 of my friends and I went out to smoke...We were on Douglass Campus for about an hour and half when a cop car suddenly shined their lights at us. In shock, my friends and I tried to walk away, while throwing away the very little weed that we had left. The cops noticed that we had dropped a bag over the ledge and searched the premises until they found a bag of weed with less than a gram left. The cop threatened to arrest every single one of my friends and I unless someone claimed it to be

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<sup>6</sup> <http://ruoncampus.rutgers.edu/policies/residence-hall-policies/drug-policy/>

theirs. Though the marijuana had been all of ours, I knew at that moment that if I had not said something, everyone would have been arrested that night. So I took the hit for the 9 of us and was arrested that cold October night.

I...was sentenced one year probation. I also was mandated drug counseling through CAPS where I completed 3 sessions. Today, I am an involved student on campus that has been on Deans List since Freshman Year. I strongly believe that my success is attributed to many things, especially remaining on campus.”

The previous policy was not as severe for possession of marijuana. Further investigation has identified instances prior to the Spring of 2016 in which students were not removed from on campus housing for a simple possession of marijuana arrest. The general penalties were mandatory drug abuse classes with ADAPS, as well as probation when appropriate. The students were not removed from housing on their first offense. Housing removal was a possible and given sanction upon the second offense, however.

## **Out-of-state Students**

This policy adversely affects out-of-state students who do not have convenient alternatives for housing when removed from their primary on-campus location. This population has grown significantly over the past decade; in 2010, there were 3,163 out-of-state undergraduate students, and in 2015, there were 5,133 out-of-state undergraduate students.<sup>7</sup> This constitutes an increase of 62% in the out-of-state student population over the course of five years.

Another student, who has also asked to remain anonymous, was forced to vacate her residence hall due to possession of marijuana was permitted to stay in emergency housing for a few weeks due to that fact that she was an out-of-state student. The student had a difficult time finding accommodations in the middle of the semester and was eventually removed from emergency housing.

*“Residence Life locked me out of the emergency housing while I was in the shower and I had to go to the office wearing a towel in order to get someone to come and open the door for me. After that, they told me I had to pack up all my stuff and move out. I missed two classes that day trying to sort everything out.”*

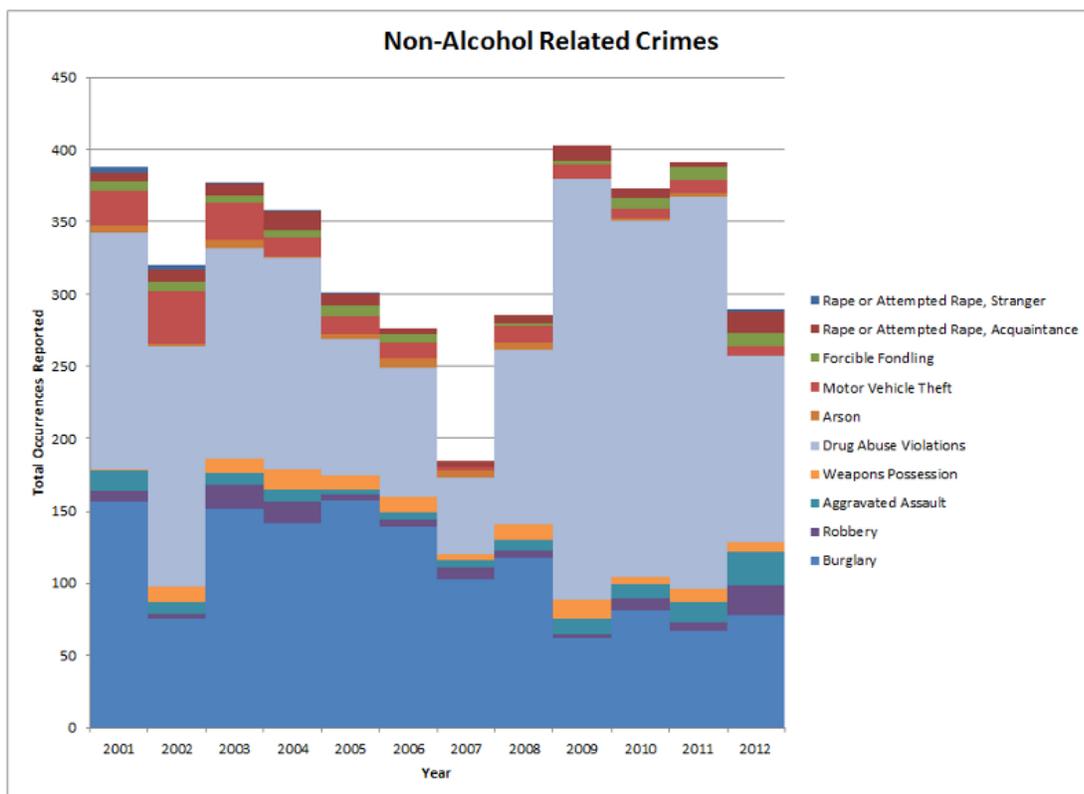
Additionally, she was told she could lose her academic scholarship given by the University. She is currently staying with friends, looking for an alternative.

## International Students

Additionally, this policy adversely affects international students who do not have convenient alternatives for housing when removed from their primary on-campus location. This population has grown significantly over the past decade; in 2010, the population of international undergraduate students at Rutgers University was 712,<sup>7</sup> and in 2015, the population of international undergraduate students was 2,525.<sup>8</sup> This constitutes a 255% increase in the international undergraduate student population over the course of five years.

International students can be considered the most acute case suffering from this policy change. They do not have the same level of access to resources as domestic students, resulting in further difficulties in transitioning to off-campus residence. These difficulties range from structural difficulties resulting from language barriers to lack of social security numbers and other documentation that are required in the renting and leasing process.

## Crime Statistic Trends



This chart<sup>9</sup> reports drug abuse violations, which covers a wide array of drug offenses, has remained relatively constant between 2001-2012. Based off data collected from past Campus

<sup>7</sup> [https://oirap.rutgers.edu/instchar/Factbook\\_PDFs/FactBooks-Archive/2009.pdf](https://oirap.rutgers.edu/instchar/Factbook_PDFs/FactBooks-Archive/2009.pdf)

<sup>8</sup> [https://oirap.rutgers.edu/instchar/Factbook\\_PDFs/2015/2-LREnroll15.pdf](https://oirap.rutgers.edu/instchar/Factbook_PDFs/2015/2-LREnroll15.pdf)

<sup>9</sup>This chart was created using data from the Rutgers University Safety Matters 2013 report, Crime Stats 2006 Report, and the Clery Reports from 2003, 2009 and 2013.

Safety Reports, which are mandated by the Clery Act, this chart shows drug abuse violations have fluctuated in the range between 50-300 per year.

## **Rutgers-Camden Campus**

At Rutgers Camden, an on-campus student's possession of illegal substances on campus (excluding underage possession of alcohol) generally results in the removal of that student from his/her current residence hall. A student found responsible for possession of illegal substances has an ability to appeal this finding; an appeal consists of a first instance appeal to a graduate student (judicial officer) and then further appeals to a full time residence life staff member. The Camden campus currently mandates, as a matter of policy, that most suspected residential hall offenses would warrant a notification to RUPD in order to ensure the safety of the other residents. Offenses such as suspicion of marijuana possession by residential staff, possession of kegs, and noise violations may result notifications of the police.

Camden campus policies currently authorize the use of financial fines as means of restitution or for similar purposes; however, fines are not implemented as means of deterrence.<sup>10</sup> Education sanctions are very often assigned to increase student awareness and safety on campus. Other sanctions include probation or (typically for subsequent offenses) suspension. The current Residential Drug Policy at Rutgers-Camden states:<sup>11</sup>

“State and federal laws regarding the possession, use and distribution of drugs, both legal and illegal, are to be adhered to by all campus residents and their guests.

1. Students charged with possession, possession with intent to distribute or with selling drugs will be immediately and permanently removed from campus housing and are subject to a University disciplinary hearing.
2. Any violation of state law could result in University disciplinary action and/or criminal prosecution.

Any person who illegally possesses, uses, manufactures or prepares, buys, sells, gives away or otherwise dispenses, or knowingly gives access to those who intend to distribute any controlled or dangerous substance within any housing facility or on any Housing property becomes subject to eviction. In the event that a substance suspected to be illegal is found in or around the residence halls, Rutgers Police will be called in to respond. If

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<sup>10</sup> As determined from discussion with Mary Beth Daisey, Associate Chancellor for Student Affairs on November 11th, 2016.

<sup>11</sup> <https://housing.camden.rutgers.edu/sites/housing/files/On-Campus%20Living%20Guide%202016-2017-FINAL.pdf>

necessary, the allegedly illegal substance will be removed. Rutgers Police Department, Residence Life Staff, and the Dean of Students Office will take further action.”

## **Rutgers-Newark Campus**

At Newark, the policies, as stated, greatly echo the policies at Camden and New Brunswick; however, the language of policy allows for more leniency. The

### Current Residential Drug Policy at Rutgers-Newark:<sup>12</sup>

“Any person who is in the presence of, illegally possesses, uses, manufactures, prepares, buys, sells, gives away, or otherwise dispenses any controlled or dangerous substance within any Rutgers University – Newark Housing facility and/or property becomes subject to eviction. In the event that a substance suspected to be illegal is found in or around the residence halls, Rutgers Police will be called to respond. If necessary, the allegedly illegal substance will be removed. Rutgers Police Department, Residence Life Staff, and the Dean of Students will take further action.

*The presence of the odor of marijuana in a room or area of the residence hall, or the physical evidence of the use of drugs found in plain sight of the observer, however insignificant, including the presence of any kind or form of drug or drug paraphernalia, whether such is being used at the time of discovery or not, constitutes a violation of this regulation.”*

## *Other Universities*

Throughout the Big Ten Conference, there are Universities that have a similar policy to Rutgers in terms of first time offenses and termination of housing contracts. However, there are five of them that have varying policies for one-time offenders of marijuana policies on campus.

## **University of Iowa**

The University of Iowa conduct system divides its sanctioning procedures into three categories known as “steps.” These steps range from 1st to 3rd, and increase with the severity of the violation. Drug possession **under** ten grams is generally considered 1st step, with higher amounts considered 2nd step, and any violation related to distribution is considered 3rd step. Housing contract cancellations only begin to occur in 2nd step violations.<sup>14</sup> Essentially, the University of Iowa does not remove students found with ten grams or less of marijuana from housing.

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<sup>12</sup> <https://housing.newark.rutgers.edu/sites/default/files/Guide%20to%20Residence%20Life%202016-2017.pdf>

Persons found in a room where drugs are being used or present are subject to disciplinary action whether or not they were engaging in the behavior. In most cases, University of Iowa Police officers will be called to the scene if there is a suspicion of drug use in the residence halls. All residents assigned to a particular room are subject to sanctions for violating the drug policy if illegal drugs are found in the room.<sup>13</sup>

A resident found guilty of violating the drug policy will ordinarily be suspended from the halls and will be required to complete a substance abuse program at Health Iowa. Residents who violate the drug policy and are allowed to remain in halls will be subject to a fine of \$300-\$700.<sup>11,12</sup>

## **Michigan State University**

Alleged violations of MSU regulations are adjudicated through the MSU student judicial process. Consequences for violations may include, but are not limited to, some form of disciplinary probation, required attendance at educational programs, referral for assessment and treatment, relocation to a new living environment, and suspension from Michigan State University for sale of illegal drugs or repeated violations of the regulations. This policy does not mention total removal from housing; rather, it specifies relocation to a new living environment. In addition, students can expect to be arrested and fined for violations of state law on campus.<sup>14</sup>

Michigan State University also lays out its support and sponsored programs aimed at the prevention of substance abuse by students. Information about education and treatment services may be obtained from Olin Health Education Service's Alcohol and Other Drug Program.

## **University of Minnesota**

Policy on Controlled Substances:

“The possession and consumption of controlled substances and being in the presence of or being under the influence of controlled substances (e.g., illegal drugs, drug paraphernalia such as bong, pipes etc.) is strictly prohibited and may result in contract termination of residence hall/apartment complex contract. This excludes the use of controlled pharmaceuticals when prescribed by a medical professional and consumed in a manner consistent with their directives.”

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<sup>13</sup> <https://housing.uiowa.edu/drugs-alcohol-and-smoking-policy>

<sup>14</sup> [https://www.hr.msu.edu/documents/supportstaffpolproc/drug\\_alcohol.htm](https://www.hr.msu.edu/documents/supportstaffpolproc/drug_alcohol.htm)

The odor of marijuana or any other controlled substance is sufficient to warrant an alleged violation of this policy. The policy lays out fifteen potential reprimands by the Office of Student Conduct, of which we note three:

**10. Deferred Removal:** This status indicates that the resident's status in University housing is now in jeopardy. Deferred Removal results in a decision by the RD/ARD in consultation with Coordinator of Student Conduct or a designee to re-assign a resident's living unit within housing to another residence hall assignment and usually prohibits the resident from returning to the residential area associated with the former assignment. Any additional violation will result in termination of the student's housing contract. This status may be extended for a specific period of time, until the completion of a specific condition, or permanently.

**11. Trespass:** This status indicates a resident is not eligible to live in or visit some or all of the residential and/or dining facilities. This restriction is enforced both by residential staff and University police. This status may be extended for a specific period of time, until the completion of a condition or indefinitely and may be limited to a specific facility or all facilities owned and operated by Housing & Residential Life.

**12. Contract Termination:** Notification that the student's contract within Housing & Residential Life has been terminated. This status may be extended for a specific period of time, until the completion of a specific condition, or permanently. *Residents terminated from University housing will be held financially responsible for 30% of the remainder of the room and meal plan contract.* In addition, contract terminated students are trespassed from all University housing and placed on University Probation.

## University of Nebraska

### *First Offense*

Marijuana (Possession or in the presence of marijuana, possession or in the presence of drug paraphernalia, disruption to the community due to drug possession or use.)

1. Minimum Response: Motivational interviewing session with Residence Director or Residence Manager, Conduct probation for one year, Behavioral Requirement for 24 hours, an attempt at parental notification, educational requirement: mandatory participation in marijuana education counseling and follow through on recommendations.
2. Discretionary Response: Additional behavioral requirement for 25-50 hours, housing relocation
3. Additional Consequence: University police notified, and appropriate legal charges may be filed.

### *Second Offense*

Marijuana (Possession or in the presence of marijuana, possession or in the presence of drug paraphernalia, disruption to the community due to drug possession or use.)

1. Minimum Response: Housing contract cancellation, attempt at parental notification.
2. Additional Consequence: University Police notified, and appropriate legal charges may be filed.

### *Recommendations*

It is clear that some drug policies adopted on campus are a result of actions taken to make students and other individuals safer on campus. RUSA acknowledges the University's obligation to enforce federal, state and local laws, however notes its discretion over the administrative sanction process. RUSA also acknowledges the University's obligation to provide a safe and developmental environment for all of its students. In the area of drug policy, these two goals often oppose each other. RUSA strongly believes that removal from housing is a destructive sanction that causes students much more harm than it protects them from. RUSA notes that all of its recommendations apply to violations related to possession and not those related to distribution. RUSA maintains that distribution of CDS is extremely harmful to the community and does warrant severe sanctions. RUSA believes this policy change to be reactionary and urges university administration to investigate further and adopt the following recommendations:

1. The University reverts to the original policy with respect to removal from housing, specifically only sanctioning housing removal upon the second offense of simple possession for personal use
2. The University employ a procedure to allow accused students to expeditiously move through the administrative Student Conduct process when housing removal is a potential sanction, further:
  - a. We recommend the University employ a standard timeline for housing removal of students and publish this timeline publicly as well as inform any accused students about it
  - b. This timeline should allow a student to remain housed on-campus in either their original or transitional housing until the resolution of their case in the Office of Student Conduct, allowing an adequate period of time for accused or responsible students to make arrangements to live elsewhere, while limiting the amount of time the responsible student remains in the community.
  - c. When possible, all efforts should be taken to assist accused or responsible students in finding new housing, including the provision of transitional housing, and any counseling services.

- d. When considering these recommendations we urge the University to consider the difficult position of accused or responsible international and out-of-state students whose situations have acute and unique circumstances.
3. The University employ some method of refunding students a portion of their housing costs, possibly prorated based on the remaining length of contract to allow students to secure transportation to and from campus and/or housing.
4. RUSA further reiterates its call for the University medical amnesty policy to apply to medical emergencies involving CDS, as denoted in the RUSA Report on Medical Amnesty at Rutgers University.<sup>15</sup> Many peer Big Ten institutions cover marijuana in their responsible action protocols, and New Jersey state law<sup>16</sup> protects individuals in a state of medical emergency due to drug consumption from criminal liability.



## **Resolution to Adopt Report on Marijuana Possession in University Housing**

Authors: Viktor Krapivin, Justin Schulberg, Evan Covello, Ini Ross, Eseosa Idumwonyi, Shannon Thompson, Anish Patel

Sponsors: Student Affairs

*Whereas*, the health and safety of members of the Rutgers University community is a primary concern,

*Whereas*, the importance of protecting on-campus communities from the dangerous effects of drugs is clear,

*Whereas*, the University has a duty to educate its students and not punish those who are in difficult times in their lives,

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<sup>15</sup> <http://senate.rutgers.edu/RUSAMedicalAmnestyReport.pdf>

<sup>16</sup> New Jersey Revised Statutes. P.L.2000, c.33 (C.40:48-1.2).

*Be it hereby resolved*, the Rutgers University Student Assembly adopts the Report on Marijuana Possession in University Housing, including its recommendations.