

MODEL SCHOOL DISTRICT POLICY

.....FOR NON-PUNITIVE RANDOM STUDENT DRUG TESTING

By Roger Morgan

Following is a Model District Policy for Non-Punitive Random Student Drug Testing (NPRSDT). It was adapted from policies of school districts throughout the nation who have active random drug testing programs, and some private schools who have virtually eliminated drug use with hair testing. Rather than re-invent the wheel, schools considering implementation of a non-punitive random student drug testing program can hopefully use this as a basis for implementing their own program, and duly modify it to fit their own circumstances. Please note that there are three significant elements to this model:

- 1) A voluntary program is available to all students using hair testing. .
- 2) Suspicion based testing if there is any cause for concern will effectively cover ALL students.
- 3) Urine and saliva test kits are also available for schools, or for sale by schools to parents.
- 4) There is no cost for the schools.

The intent in providing this program is to provide an easy model for schools to start a program, without re-inventing. The program can be tweaked and modified to as time goes on, or in response to particular needs within a school system. But this program makes it easy to start.

MODEL SCHOOL DISTRICT POLICY **FOR NON-PUNITIVE RANDOM STUDENT DRUG TESTING**

Subject: Non-Punitive Random Drug-Testing Is Available to All Students on a voluntary basis; and as protection School Policy Will Stipulate that If There Is Any Cause For Concern, All Kids Will Be Tested.

Because the Board recognizes that illicit drugs impair a young person's ability to retain information and learn, and because students who are under the influence of drugs may endanger themselves and others, the superintendent and/or his or her designee will establish a non-punitive random drug-testing program for all students in grades 6 through 12 (middle, junior, continuation and high school) in order to protect their health and safety and enhance the learning environment for all students. Parents will be required to sign the consent form at the beginning of the each school year and will have the right to determine that their child not be subjected to the random testing during the specific school year, however, participation in athletics or extra curricular activities will and driving/parking on campus require the student's participation.

LEGAL REFERENCES

LEGISLATION

- Vernonia School District 47J vs. Acton, 515 U.S. 646, 115 S Ct. 2386, 132 L. Ed. 2d 564 (1995)
- Board of Education of Independent t School District No. 92 of Pottawatomie County v. Earls, 536 U.S. 822, 122 S. Ct 2559, 153 L. Ed.2d 735 (2002);
- Joye v Hunterdon Central Regional High School, 176 N.J. 568, 826 A.2d 624 (NJ 2003);
- Linke v. Northwestern School Corp., 763 N.E. 2d 972, 162 Ed. Law Rep. 525 (Ind. 2002)
- Trinidad School Dist. No. 1 By and Through Lopez, 963 P.2d 1095, 129 Ed.Law Rep.812 (Colo. 1998)
- York v. Wahkiakum School dist. No. 200, 110 Wash. App. 383, 40 P.3d 1198, 161 Ed. Law Rep. 1023 (Div. 2 2002)
- Drug Testing Law, Technology, and Practice (West Group, Rochester, NY) Chapter 8

PROCEDURES

NON-PUNITIVE RANDOM DRUG-TESTING OF STUDENTS

Students who test positive under the policy and this accompanying procedure will be treated according to the terms of this procedure. Students who are determined to be involved in criminal activities related to drugs will be disciplined in the same manner as any other student, according to the law and local school district policy.

POLICY OBJECTIVES

1. To create and maintain a healthy, safe, drug-free environment for all students.
2. To provide early detection and treatment of students exposed to illegal drugs use.
3. To encourage any student with a dependence on, or addiction to, tobacco, alcohol or other illicit drugs to seek help in overcoming the problem.

4. To reduce the likelihood of incidents of accidental personal injury and/or damage to students of property.
5. To minimize the likelihood that school property will be used for illicit drug activities.
6. To protect the reputation of the school system and its students.
7. To help young people arrive at adulthood prior to first significant use of alcohol, tobacco and illicit drugs, where research has shown they should never have a problem of addiction.
8. To optimize the level of academic achievement by eliminating activities which diminish a child's ability to absorb and retain information.

NON-PUNITIVE NATURE OF POLICY

No student shall be penalized academically for testing positive for use of illegal drugs or alcohol, nor shall any student be denied any benefits or services other than potentially the district sponsored athletic and/or other extra-curricular activities as outlined above. The results of drug tests pursuant to this policy will not be documented in any student's academic records. Information regarding the results of drug tests shall be kept confidential between the superintendent, the principal or their designee, the student assistance program representative, the student's custodial parent or legal guardian, and the student. In the event that a student appears in front of the School District Board of Directors for an appeals hearing of any nature, information pertaining to non-punitive random drug testing of the student shall be made available to School Board Representatives.

In particular, test results will not be disclosed to law enforcement or juvenile authorities absent a valid and binding subpoena or other legal process issued by a court of competent jurisdiction. In the event of service of any such subpoena or legal process, the student's custodial parent or legal guardian will be notified in writing as soon as reasonably possible, but in no event more than seventy-two (72) hours after such subpoena is received. Verbal notification may be given, followed by written notification.

NOTIFICATION

1. Voluntary Program - Parents/guardians of all students will be notified of this procedure prior to the beginning of the drug testing program. Participation in the voluntary program will cost \$59 per child with the proviso that he/she will be tested at random at least one time during a school year. All costs will be paid by parents, or the child. If a child tests positive, follow on tests will be performed.
2. Suspicion Based Testing - Written notification of the voluntary program, and the sole prerogative of the school to test any child that shows cause for concern, will be included with orientation/registration materials that are provided to all students and their parents/guardians at the beginning of the school year. If a child tests positive, the parents will sign a Parent Pledge, and corrective action will be taken to protect the child, including enrollment in treatment if required.

CONSENT FORM

1. All students and their parents/guardians will be asked to sign consent forms to participate in the voluntary Non-Punitive Random Student Drug Testing Program as a requirement for participation in athletics and extra curricular activities and driving or parking on school property. Even if they refuse, all students will be subjected to a suspicion based test using hair analysis, which in essence covers all students.

2. Parental consent forms will grant the school the unfettered right to drug test any student who show cause for concern, and will include an acknowledgement that all illegal and legal drugs will be subject to identification.

Students and parents will sign a consent form (attached) on which they acknowledge they understand the intent of the program; the school's responsibility to protect the health and safety of all students; the potential limitations on the child's participation in athletics and extra-curricular activities by not participating in the non-punitive voluntary random student drug testing program; and that all students are subject to drug testing based on suspicion.

EDUCATION

1. A program of drug education for students and their parents/guardians will be established at each school to present a clear "no use" of any illicit drug message, or misuse of any legal medication.
2. At the beginning of the school year, educational material on the harms of marijuana and other drugs on the developing body and brain will be included in the Orientation package.

PARENT MEETINGS

1. Schools will schedule at least one meeting for students and their parents/guardians early in the school year to present and explain the student drug testing program and to answer questions. Principals will designate the appropriate people to conduct the presentations.
2. Parents/guardians will be notified of the meetings in letters as described in No. 2 of the Notification Section (above).
3. If a child tests positive, the parents will sign a Parent's Pledge and also complete a course of the true facts about marijuana and other drugs.

TESTING PROCEDURES

1. The Take Back America Campaign (TBAC) office will pay \$5 to a designated school employee, or a volunteer or local collation to collect hair samples and send them to the lab. TBAC will communicate the test result back to the parents and/or designated school person. The parent and/or child will pay \$59 if the test is positive. If negative, TBAC will cover the cost.
2. If hair testing is not feasible for any reason, alternate means of testing will be done by trained personnel using on-site drug test kits, either urine or saliva. Parents and guardians and students will be advised of the result. In the case of a positive test, the parents/guardians and students may request a confirmation test by a qualified laboratory at their own expense, unless the laboratory finds the result should have been negative, in which case TBAC will pay.
3. Tests will be performed in a secure and private area, established by each school with the advice and counsel of qualified experts.
4. On-site test kits range in cost from \$1.75 for a device to detect 5 drugs; \$5 for 10 drugs; \$11.00 per device for an on-site Oral test using saliva to detect 6 drugs. (*Redwood Biotech*,

P.O. Box 14327, Santa Rosa, Ca 95402. Phone 800 255-21589 Ext 34402

5. The school will make on-site test kits available to parents for home use for an increased fee to cover handling costs and to sustain the program at school..
6. Testing will consist of obtaining samples to be screened for, but not limited to, any of the following substances:

- Alcohol	- Tobacco
- Marijuana	- LSD
- Amphetamines	- Phencyclidine (PCP)
- Cocaine	- Steroids
- Ecstasy	- Heroin
	- Other controlled substance
7. Unless testing occurs in the course of a drug counseling/rehabilitation program or based on any cause for concern , or as a requirement of an appeal for re-instatement, students will be identified for testing through a random, computer-driven process.
8. The principal's designee will be informed of the students to be tested by the testing program representative.
9. All test-related information will be kept confidential, except principals/designees will be notified by the testing facility of positive test results, after the facility has notified affected students and their parents/guardians. Principals/designees will notify those employees who need to know.
10. Students taking drugs prescribed by their physicians must notify principals/designees prior to testing and provide written documentation upon request.

CONSEQUENCES

Consequences can be determined locally by parents and school personnel. The following are offered as suggestions, to provide a starting point.

1. Students who refuse to be tested will be considered to have tested positive for each instance of refusal and will not be granted the option of appeal.
2. In the event of a FIRST positive test, students will be:
 - Ineligible to drive/park on campus for a period of 90 school days, but permitted to continue with athletics and/or extra curricular activities subject to interim on-site drug testing..
 - Required, with at least one parent/guardian, to participate in, and complete, an identified drug counseling and/or educational program.
 - Required to be re-tested on a regular, non-random basis while participating in athletics for the remainder of the school year, and be enrolled in the voluntary non-punitive random drug testing program through high school.
3. In the event of a SECOND positive test, students will be:

- Ineligible to participate in athletic competition or extra-curricular activities, including driving or parking on school premises, for a period of 180 calendar days, but permitted to practice.
 - Required, with at least one parent/guardian, to participate in, and complete, an identified drug-counseling program at the student's expense.
 - Required to be re-tested and receive a negative result before release from the counseling program and to be re-tested on a regular, non-random basis while participating in athletics or extra curricular activities, including driving or parking on school premises, for a period of one calendar year.
 - Required to test negative on drug tests prior to participating in sports again.
4. In the event of a THIRD positive test, or any positive tests thereafter, students will be:
- Ineligible to participate in athletic competition or extra curricular activities or driving/parking on campus for the balance of the school year.
 - Required, with at least one parent/guardian, to participate in, and complete, an identified drug counseling program at the student's expense.
 - Required, to be re-tested and receive a negative result before released from the counseling program and to be re-tested on a regular, non-random basis while participating in athletics for the remainder of their enrollment in high school.
 - Required, in the event of an interruption between seasons of athletic competition or other extra curricular activities, to re-test with negative results before participating again.

APPEALS

1. Appeals of positive drug tests may be initiated by students and their parents/guardians and students will remain eligible during the appeal process until and if a qualified laboratory confirms the positive result.
2. Students will be permitted to include any relevant information at the time of submitting their appeals, such as prescription drugs being taken which could affect the test.
3. Appeals must be submitted in writing to principals/designees within 48 hours of notification of positive drug-tests, using District "Appeal of Drug-Test" forms obtained at school sites. (See Exhibit B)
4. Confirmation tests will then be conducted at an alternate laboratory.
5. If test results of the second portion of the original urine sample are positive, the appeal will be denied.
6. If test results of the laboratory test are negative, students will remain eligible to participate in athletics and extra curricular activities and the District will bear the cost of the confirmation test. If the lab test confirms the initial result, the student/parents will pay for the test.

INTERVENTION

1. Coaches, teachers, counselors, administrators, and/or other students, who suspect illegal drug use by students, should immediately notify their principals or Program Director.
2. Program Directors will take a hair sample, or conduct a urine or saliva test, and advise guardians or parents of the outcome.

VOLUNTARY NON-PUNITIVE RANDOM DRUG-TESTING FOR STUDENTS

And

ACKNOWLEDGMENT OF SCHOOL'S RIGHT TO TEST ANY STUDENT BASED ON ANY CAUSE FOR SUSPICION OF ILLEGAL DRUG USE

Board Policy states that:

Because the Board recognizes that illicit drugs impair a young person's ability to retain information and learn, cause permanent damage to their brains and vital organs, and because students who are under the influence of drugs may endanger themselves and others, the Superintendent and/or his or her designee have established a voluntary non-punitive mandatory random drug-testing program for all students in Grades 6 (middle schools) through 12 in order to protect their health and safety and enhance the learning environment for all students.

Concurrently, the School Board retains the right to test any child based on *any cause for suspicion* that illegal drugs are being used, based on its sole, unfettered discretion. Based on scientific evidence, the human brain is not fully developed until the mid twenties or older, and particularly during adolescence, it has been determined that alcohol, tobacco and other drugs (ATOD) can cause **permanent** brain damage, **psychosis**, **cellular damage** which adversely affects the child and future generations, **suicidal depression** and **addiction** ... aside from **diminishing one's ability to learn**. The school functions as surrogate parents while children are in its domain. This policy has been established to protect the lives and future of the children and enhance their education so they can attain their maximum potential through a sound and safe framework.

We fully understand that the student identified below may be randomly selected, or required in certain circumstances, to be tested for the presence of all illegal and non-prescription drugs and/or alcohol, and we give consent for the student to participate in the voluntary non-punitive random drug testing program, and acknowledge the school's right to test any student based on suspicion.

The student shall have a right and obligation to explain any medical condition for which drugs have been prescribed which could alter the test result.

We authorize the school's designated testing person to disclose the results of the testing to us and to the school's Program Director, who will share that information only with other employees who need to know.

Street Address	City	Zip Code	Phone
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Parent/Guardian Name (Print)	Parent/Guardian (Signature)	Date
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Student Names (Print)	Student Signature	Date
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NON-PUNITIVE RANDOM DRUG-TESTING OF STUDENTS

APPEAL FORM

School Board policy reads that “appeals of positive drug tests” may be initiated by student athletes and/or their parents/guardians as follows:

- Students will remain eligible during appeal and laboratory confirmation of test results.
- Students will be permitted to submit any relevant information at the time of requesting appeals.
- Appeals must be submitted in writing to principals/designees within 48 hours of notification of positive drug test results.
- Confirmation tests will be conducted at an alternative laboratory on a second portion of the original urine sample.
- If test results of the second portion of the original urine sample are negative, the student will remain eligible to participate in athletics and extra curricular activities and the District will pay the cost of the confirmation test. If positive, the student and/or parents will pay the cost of the confirmation test which will be approximately \$50, and subject to change.”

We appeal the positive test results of the student identified below. In addition, we authorize the confirming laboratory to disclose the results of the testing to us and to the school Principal/designee.

Street Address	City	Zip Code	Phone
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Parent/Guardian Name (Print)	Parent/Guardian Signature	Date
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Student Name (Print)	Student Signature	Date
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Print in the space below any comments/information you have regarding the appeal. You may attach additional items.

21 DRUG-FREE CHALLENGE

“OPT OUT” AGREEMENT REMOVING STUDENT FROM VOLUNTARY NON-PUNITIVE RANDOM STUDENT DRUG TESTING PROGRAM

THIS OPTION MUST BE SIGNED AT THE BEGINNING OF EACH SCHOOL YEAR

We elect to “opt out” of the voluntary random student drug testing program, but acknowledge our understanding of the following:

- The disease of addiction to alcohol, tobacco and drugs can be acquired easily and quickly by a child or adolescent. If there is a history of addiction in the family, the chances of a child having a genetic predisposition to addiction is 4 to 6 times greater.
- Children are much more susceptible to harm and addiction than adults because their brains and vital organs are not fully developed until the late teens or early twenties.
- Research shows if a child reaches age 21 prior to first significant use of alcohol, tobacco and drugs they should virtually never have a problem with ATOD; and that almost all addiction originates with children between 11 and 17 years old, on average at age 13.
- The school has a “no use” policy for ATOD by students, and we agree to comply with this policy.
- The school program of random student drug testing is:
 - 1) Non-punitive, intended to deter use of alcohol, tobacco and other drugs (ATOD), and detect problems early in children so they can get treatment before addiction reaches a level that addiction makes treatment difficult, expensive, and too often ineffective;
 - 2) The results are confidential between designated school personnel and the parents; the records are sealed and destroyed upon graduation, and have no impact on a child’s ability to seek higher education or scholarships;
 - 3) The intent of the program is to keep kids in the school system until they arrive safely to adulthood free of dependency on ATOD, not suspend or expel them as with “zero tolerance” programs.
- The school recognizes that the majority of students do not use ATOD, but that random drug testing is the best deterrent to keep the majority of students healthy and in a safe learning environment.
- Schools function as surrogate parents while children are in their domain, and as such, have a responsibility to protect the health and safety of all students and preserve a good learning environment.
- The school reserves the right to do “suspicion-based testing” for ATOD, and in the event of a “positive” test result will communicate the results to the parent a the parents/student cost will be \$59.. The school will have the right to order additional alcohol and drug testing as required by school district policy to protect the student and other students who may be affected by his or her behavior.
- We are fully informed of any Student Assistance Programs offered at school, and should the need arise, these resources are still available to us.

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<hr/> <u>Parent/Guardian Name (Print)</u>	<hr/> <u>Parent/Guardian (Signature)</u>		<hr/> <u>Date</u>
<hr/> <u>Student Name (Print)</u>	<hr/> <u>Student Signature</u>		<hr/> <u>Date</u>