

Chapter 1 : Frequently Asked Questions About Drug Testing in Schools | National Institute on Drug Abuse

drug testing public school students engaged in athletics and extra-curricular activities, to date, very little has been written about drug testing as a public health screen.

The school tragedies in these communities brought the threat to school safety into the public conscience and moved school safety onto the U. Safety threats, once thought to be only an urban problem, are a concern for urban, rural, and suburban areas alike. Although schools are among the safest places for children to be, education policymakers and administrators continue to look for ways to protect students and staff. One tool for keeping schools safe is the use of student searches. This right is diminished in the school environment, however, because of the unique need to maintain a safe atmosphere where learning and teaching can occur. The courts have recently expanded the right of school officials to conduct student searches, resulting in part from recent acts of school violence and heightened public scrutiny. A search that was illegal 20 years ago now may be a legal search. Unfortunately, no definitive test exists for determining what constitutes a legal search. Moreover, what may be legal in one jurisdiction could be illegal in another locality because search law is so fact- and context-specific. This vagueness leaves teachers, administrators, policymakers, and school security and law enforcement personnel wondering what constitutes a legal search of a student in a public school. Constitution guarantees "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. Schools argued that administrators acted in loco parentis" in the place of the parent while students were at school. In , the U. Supreme Court determined that the Fourth Amendment applies to students in the public schools *New Jersey v. The Court concluded, however, that the school environment requires an easing of the restriction to which searches by public authorities are normally subject. School officials, therefore, do not need probable cause or a warrant to search students. The Court articulated a standard for student searches: Reasonable suspicion is satisfied when two conditions exist: In *New Jersey v. Since this landmark decision, several cases have debated what constitutes reasonable suspicion: Four students huddled together, one with money in his hand and another with his hand in his pocket, does not provide reasonable suspicion A. State of Florida, A report made by two students to a school official that another student possesses a gun at school constitutes reasonable suspicion to search the student and his locker In re Commonwealth v. The fact that the search of all but one student in a class fails to reveal allegedly stolen property gives school officials reasonable suspicion to search that student *DesRoches v. Although the legal standard for reasonable suspicion is clear, the application of it in different contexts is not always as clear. The Court has even noted that articulating precisely what reasonable suspicion means. Reasonable suspicion is a commonsense, nontechnical conception that deals with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. United States, , at Probable Cause and Student Consent School officials need only reasonable suspicion to search students in public schools, but sworn law enforcement officials normally must have probable cause to search students. Probable cause to search exists when "known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband. United States, , at But are law enforcement officials assigned to schools to maintain safety subject to the reasonable suspicion standard or the higher probable cause standard? The answer depends on whether the court views law enforcement personnel assigned to the school as school officials or law enforcement officials. Such a relationship could change the standard necessary to conduct a student search. Some courts treat police officers as school officials subject to the lower standard of reasonable suspicion when they search students at the request of school administrators In the Interest of Angelia D. Other courts hold that school officials conducting a search on the basis of information from the school resource officer are acting as agents of the police and are, therefore, subject to the higher standard of probable cause *State of New Hampshire v. The mere presence of a sworn law enforcement officer during a search by a school administrator does not trigger the need for probable cause *Florida v. School officials and sworn law enforcement officers may conduct a search without reasonable suspicion or probable cause if the student voluntarily consents to the search. When consent is granted, officials may conduct the search only within the*****

boundaries of the consent. If a student consents to the search of her purse, for example, an administrator may not search her locker unless the search of the purse provides probable cause or reasonable suspicion to search the locker. School officials and law enforcement officers are not required to advise students that they have a right to refuse to give consent to search. Some school policies or state regulations, however, may require that they advise students of their rights. Some school policies require students to provide consent to a search or risk discipline. In at least one federal circuit, the court has upheld this policy *DesRoches v. In this case*, all but one student consented to a search of their personal belongings. The search of the consenting students revealed nothing. Pursuant to school board policy, *DesRoches* was suspended for 10 days for failure to consent to the search. The student claimed that his Fourth Amendment rights were violated because the administrator did not have reasonable suspicion to search him. The court held that when the search of all other students in the class failed to reveal the stolen item, the administrator had reasonable, individualized suspicion to search *DesRoches*. Therefore, his discipline for failing to consent to a legal search was upheld.

Individual Versus Random Searches School officials conduct individual searches when they suspect that a student or a small group of students possesses evidence of a violation of the law or school rules. Such searches are subject to the reasonable suspicion standard. Officials conduct random or blanket searches not because of individualized suspicion, but as a preventive measure. Examples of random searches include the use of metal detectors in school entrances and sweeps of parking lots and lockers. The legality of a random search depends on whether the school has a compelling interest or special need that warrants the use of a search without suspicion. The most common need articulated by schools is the prevention of drug abuse. Perhaps the most controversial random search is the use of drug-sniffing dogs in schools. In fact, most courts conclude that such detection is not a search because the dogs merely sniff the air around the property and that students do not have an expectation of privacy in the air around their belongings. Prevention of drug abuse, according to this court, does not justify the dog sniffing the person because it intrudes on the expectation of privacy and security.

B. Plumas Unified School District, This case changed practices in many school districts—those schools no longer use the dogs to sniff around students. Drug-testing programs are another form of a random search. In , the Supreme Court upheld a drug-testing program for student athletes because the school had a documented drug epidemic; participation in athletics was optional; the athletes had a lessened expectation of privacy because they participated in communal showering; the athletes had a heightened risk of injury; the athletes were the leaders of the drug culture; the testing procedure was minimally intrusive; and the consequence of a positive test was not discipline but treatment.

Vernonia School District 47J v. As schools try to expand drug-testing programs beyond the facts in Vernonia, courts have struggled in a number of cases to determine what is constitutional: *Rush and Miller v. Wilkes* upheld drug testing for students participating in any extracurricular activity. *Anderson* struck down drug testing for students suspended for certain disciplinary infractions such as fighting. *Penn-Harris Madison School Corporation* upheld a drug testing program for students who drive to school or engage in extracurricular activities. *Board of Education of Tecumseh Public School District* struck down a drug-testing policy for students participating in extracurricular activities because no special need existed other than for athletes. The opinion notes, however, that schools need not wait until drug use is epidemic before implementing a testing program. *Lockney Independent School District* struck down a drug-testing policy for all middle and high school students for lack of a compelling state interest there was no documented drug abuse program for students in this locality. Until the Court provides guidance on drug-testing programs beyond the facts of *Vernonia*, schools should consider the following questions before instituting a drug-testing program: How serious is the drug problem in the tested population? Have less intrusive means to combat the problem been exhausted? Did parents give consent to the search? Is the testing procedure reliable and minimally intrusive? Are the consequences of a positive search result discipline, denial of privileges, or treatment? The primary purpose of student searches is to maintain a safe learning environment. Discipline and conviction are two secondary purposes. Usually, law enforcement personnel conduct searches to reveal evidence of a violation of the law. The seized evidence then can be used in a criminal trial to convict the student of a crime. School administrators conduct a search to gather evidence for school discipline. At times law enforcement and school administrators may, therefore, have different purposes

for a potential search. One crucial difference in their purposes is the ability to use the results of an illegal search in a disciplinary hearing but not in a criminal proceeding. School administrators face severe threats to school safety and are simultaneously held increasingly accountable to the public and policymakers to keep students safe. To keep schools safe, most administrators err on the side of searching rather than not searching. In fact, an administrator will not incur civil liability unless his or her conduct violates clearly established statutory or constitutional rights *Harlow v. Immunity* is not dependent on whether the actual search violated the law but rather on the objective reasonableness of the search. Immunity protects administrators acting in good faith in a gray area of the law. Preventive Search As school practitioners navigate the murky waters of school searches, two practices may help successfully avoid legal challenge: After a search, administrators should meet with those individuals who are involved. Record and reflect on the crucial areas of the search and learn from the reflection. This exercise may be invaluable if the search is subsequently challenged. Document the names of the people who conducted the search; the background of the student who was searched; the alleged infraction; the way the school learned of the infraction; the basis for the search for example, how reasonable suspicion, probable cause, or consent was obtained ; the time and location of the search; the names of the people who were present at the search; and the school policies that were implicated and followed. School officials should also note whether the police were involved or present during the search. The best search policies are developed by school boards who work collaboratively with local law enforcement officials, local judges and attorneys, school staff, and community members. A sound policy can make the difference between a legal or illegal search. Sound school search policies should have a mission statement: They should outline techniques for searching students, from the least intrusive to the most intrusive means metal detectors, canines, breath tests, urine tests, pat downs, strip searches , and they should describe the types of searches students may be subjected to while on school property or at a school function locker searches, automobile searches, personal belongings, and personal searches. Despite the lack of clarity about whether to apply reasonable suspicion or probable cause in different situations, courts are more willing now than ever to find student searches legal to preserve safety.

Chapter 2 : Historical Legal Basis for Drug Testing - NORML - Working to Reform Marijuana Laws

The Effectiveness of Mandatory-Random Student Drug Testing. Students involved in extracurricular activities and subject to in-school drug testing reported less substance use than comparable students in high schools without drug testing, according to a new evaluation released today by the Institute of Education Sciences.

Drugs and Testing Drugs and Testing Drug use by athletes has been a controversial issue for many years. Athletes often use artificial stimulants to give them a physical and mental advantage over their opponents. The use of performance-enhancing drugs can be traced to the ancient Olympic Games where fame and fortune were rewarded, just as today, for athletic success. Drug testing of athletes is becoming common in all sports to one degree or the other. This raises constitutional issues including the right to privacy and due process protections from illegal searches and seizures, particularly since testing involves an analysis of a sample from urine or blood. This includes common, over-the-counter muscle-building supplements, recovery products, and endurance-enhancing blood doping. Performance-enhancing drugs might be consumed orally or via needle injection. When the government or a governmental entity such as a public school or public college desires to test a student-athlete for drugs, this constitutes state action. There is no state action for private sports leagues, and therefore the fourth, fifth, and fourteenth Amendment issues are generally not applicable in such context unless such testing is established by contract. Federal laws that regulate drug use and distribution include the Anabolic Steroid Control Act of Steroids are artificial and synthetic forms of hormones, such as testosterone, that improve muscle building, growth, and repair. Since the government state desires to invade the privacy of athletes by testing their urine or blood for drugs, athletes have constitutional safeguards that allow a challenge to such a test on the grounds of its constitutionality. Numerous challenges to such policies have failed, and recently courts have given support to the use of mandatory, suspicion-less testing. Still, private organizations have their own testing policies that usually require consent to such policies including appeals as a condition for participating in that league. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched and the persons things to be seized. While many athletes now understand that being tested is a necessary part of the nature of competition, numerous cases have reached the courts to determine whether or not an individual athlete has a legitimate expectation of privacy when it comes to drug testing. Supreme Court held in *Vernonia School District v. Additionally*, though there may not be probable cause per se in testing high school athletes, the Supreme Court affirmed that public school districts do have special needs. The Court held that random drug testing was valid since such programs serve a compelling interest in public systems to deter the use of drugs. Fifth Amendment Another constitutional consideration for drug testing of athletes is the Fifth Amendment, which provides: No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. An athlete should be granted a process for a hearing and appealing a positive drug test result. The right to go to school or participate in athletics is a property right. The NCAA established its own drug testing program in and comprehensively tests for both illegal street drugs and performance-enhancing drugs. Whether the NCAA is a state actor [4] is subject to debate, though the answer seems to be that it is not and therefore is characterized as a private actor. The major aim of professional sports and drug testing appears to be treatment for the offender rather than punishment. Such a policy is much different than the Olympic Games where punishment and future deterrence appears to be the primary concern. Each has different testing for a variety of drugs and punishments and treatment are different in each league. Additionally, there is confusion as to what drugs should be banned since the spectators themselves could legally purchase certain performance-enhancing training supplements at the local supermarket while the athletes could be punished for using the same supplements. Drug testing issues in professional sports center on contract and consent issues rather than constitutional issues. This applies to all players who have not yet retired from the league. All players are tested in April and August, during the preseason. One of the more famous cases involving an Olympic athlete was the use of illegal steroids by

Canadian track star Ben Johnson in during the Seoul, Korea, Games. The Olympic Movement has set the standard for both competition drug testing and out of competition testing. Olympic caliber athletes have been drug tested throughout their careers, few have truly understood the drug testing process. The ever-changing rules and regulations, as well as the increase in number of doping control programs, while appearing to assist in the fight against doping in sport, have proven to be confusing and sometimes inconsistent. Many organizations cannot interpret their own rules, nor do they fully understand the jurisdictional issues that arise with respect to every sample taken until they are caught in a crisis. Each sport within the Olympic Movement has a national federation, which is responsible for coordinating the activity for that particular sport in the country. There is no state action for private sports leagues, and therefore the Fourth, Fifth, and Fourteenth Amendment issues are generally not applicable in such context unless such testing is established by contract.

Chapter 3 : Vernonia School District 47J v. Acton - Wikipedia

Drug testing in schools evidence, Student Drug Testing Coalition 5 Ethical and legal implications of drug detection and screening programs..

Facts[edit] In the mids, officials in the school district in Vernonia noticed a precipitous rise in drug use among the students in the Vernonia School District. Disciplinary problems arose in frequency and severity. At the trial, the Vernonia High School football and wrestling coaches noted they had witnessed injuries attributable to student drug use. In response, the school district offered special classes, speakers, and presentations to the students intended to deter drug use. It brought in a specially trained dog to detect drugs, but the drug problem continued unabated. The protocol of the random drug testing program the district initiated was straightforward. All student athletes would be required to submit to the program as a condition of participating in athletics. A subsequent search of her purse revealed drug paraphernalia, marijuana, and documentation of drug sales. She was charged as a juvenile for the drugs and paraphernalia found in the search. She fought the search, claiming it violated her Fourth Amendment right against unreasonable searches. Supreme Court, in a ruling, held that the search was reasonable under the Fourth Amendment. Majority Opinion[edit] The Fourth Amendment only protects against unreasonable searches and seizures. Although a search is presumptively reasonable if carried out pursuant to a warrant issued upon a showing of probable cause, the Fourth Amendment does not require a showing of probable cause in all cases. When "special needs" outside of ordinary law enforcement needs make obtaining a warrant impractical, the Fourth Amendment allows officials to dispense with the formality of obtaining a warrant. Such "special needs" adhere in the public school context, because administrators need to be able to maintain order within the school. The final vote was in favor of the school The Fourth Amendment only protects against intrusions upon legitimate expectations of privacy. Thus, public school students have a lesser expectation of privacy than members of the general public. Among public school students, athletes have even less of an expectation of privacy. They suit up in locker rooms before practice. They take communal showers afterward. They subject themselves to additional regulation and medical screenings in order to participate in school sports. First, the subject is monitored while providing the actual sample. In the case of the Vernonia policy, boys were visually monitored from behind while providing the sample, while girls were monitored aurally from outside a closed stall. The results of the test were disclosed only to a small group of school officials and not to law enforcement. And although the Vernonia policy required students to disclose prescription drugs the student was taking in advance, the Court was unwilling to assume that the school district would misuse the medical information disclosed to it by student athletes. The Court thus concluded that the invasion of privacy was "not significant. Drug use has a more deleterious effect on adolescents than on adults. The "effects of a drug-infested school are visited not just upon the users, but upon the entire student body and faculty, as the educational process is disrupted. Thus, the Vernonia policy was a reasonable search under the Fourth Amendment. Historically, the Court had disapproved of blanket searches, particularly in the criminal context, where the search was more than minimally intrusive. More recently, the Court had limited its willingness to dispense with the individualized suspicion requirement only in particularly dangerous contexts, such as prisons. Furthermore, the school district itself already had in place a discipline system based on individualized suspicion for a variety of infractions, such that adding drug testing to the mix would not be particularly onerous. All of the evidence justifying the drug testing program "consisted of first- or second-hand stories of particular, identifiable students acting in ways that plainly gave rise to reasonable suspicion of in-school drug use.

Chapter 4 : The Right to Search Students - Educational Leadership

A school or school district that is interested in adopting a student drug-testing program should seek legal expertise so that it complies with all federal, state, and.

The Supreme Court And Student Drug Testing Today Seemingly turning its back to the United States Constitution, years of precedent, the most inherent civil liberties, and a nation that prides itself on the virtues of limited government, in June the Supreme Court ruled in favor of a Vernonia, Washington School District law mandating drug tests for all secondary school athletes regardless of reasonable suspicion. Urinalysis And The Courts: Before The "War On Drugs" Though it may come as a surprise to many, a quick look at the federal record indicates that the lower federal and state courts once had a history of striking down mass drug testing programs as unreasonable searches and seizures. The courts maintained this tradition until as late as the mids. Examples of this are numerous and widespread. City of Chattanooga ruled that the mass urine testing of fire-fighters without individualized "reasonable suspicion" was in violation of the fourth amendment. Similar past lower court decisions negating mass urinalysis as unconstitutional include: City of Plainfield, F. Around this same time, other lower courts also reviewed several cases regarding the legitimacy of student drug testing. Like the examples listed above, the courts habitually struck these proposed laws down as unconstitutional. In this example, the regional board of Education had adopted a policy that made urinalysis a necessary part of the state-mandated physical. This policy was implemented as a measure to curb what was perceived to be growing student drug use in the high school. The Board of Education contended that the testing was strictly a "medical procedure" and that "no civil or criminal sanctions [were] imposed in the event of a positive test. The New Jersey Supreme Court, however, disagreed. July 16, unpublished , the court concluded that urine searches were unconstitutional because they do not effectively determine whether an adolescent had violated school rules regarding the use or possession of drugs at school. The court ruled this way because the urinalysis provides no information as to whether any given student had used, possessed, or was under the influence [of drugs] while at school. Supreme Court decision New Jersey v. The court in this case also deemed student drug testing to be unconstitutional on the inherently invasive nature of urinalysis. Much like the ruling handed down by the New Jersey Supreme Court, the Arkansas Court concluded that the excessive intrusive nature of the test is not justified by its need. On the basis of a series of consistent lower and appellate court decisions, it appeared that the American courts had established a firm position regarding drug testing both in the schools and in the public workplace as being unconstitutional. Prior to the Drug-War era, drug testing without reasonable suspicion had only been upheld by the courts in the military context. This policy was challenged in Committee for GI Rights v. Few would argue that the defense of the nation against foreign invaders or against terrorism is not a legitimate compelling state interest. Moreover, military servicemen historically have been subjected to serve under significantly less constitutional freedoms than those enjoyed by the rest of society. However, as America began to enter the Reagan and Bush years, the administrative search "exception" began to creep into cases outside of the military. In the late s, as national anti-drug rhetoric and zeal mounted, workplace employee drug testing programs were widely implemented. Many of these programs called for mass testing without individualized suspicion. In response to these policies and a growing American political climate that supported a "zero-tolerance" approach to drug use, many circuit courts began relaxing the "reasonable suspicion standard" of the past see, e. City of Chattanooga, above and, instead began widely applying the administrative search exception wherever they deemed it to be even remotely applicable. The first major appellate court ruling approving mass urinalysis procedures in the public workplace through this administrative justification was Shoemaker v. In this precedent-setting case, five well-known jockeys brought action challenging New Jersey Racing Commission regulations that required all official jockeys, trainers, or grooms to submit to breathalyzers and urine testing. The jockeys argued that such testing was unreasonable -- and thus unconstitutional--absent individualized suspicion. However, citing the administrative search exception, the U. Third Circuit Court of Appeals decided that, "warrantless searches or seizures by voluntary participants in [a] highly [state regulated Dramatic Changes on the Way In the years following the Shoemaker

decision, lower courts began to uphold this new line of thinking. For example, the administrative exception has been successfully applied to federal employees, including prison guards *McDonell v. Von Raab*, S. Probably the most significant of all these cases was *NTEU v.* In this case, a program was instituted requiring all employees seeking promotions to certain "sensitive positions" to submit to urinalysis regardless of the existence of probable cause or individualized suspicion of drug use. The uniform testing policy had the potential to infringe upon the privacy of over , federal employees. Furthermore, the Commissioner for the Customs service stated that the workplace was "largely drug-free" to begin with, thus making the intrusion appear unnecessary. The Court reasoned that those individuals seeking employment in sensitive positions must assume that inquiries will be made into their drug use and therefore will have a diminished expectation of privacy. The revolutionary *Von Raab* decision signaled a major departure in thought for the American justice system. Suddenly, what had once been the "exception" became the rule. Individual privacy, a right once thought to be guaranteed by the First and Fourth Amendments to the Constitution, was no longer seen as legitimate when balanced against the state interest to win the "War on Drugs. In fact, the *Von Raab* ruling demonstrated that urinalysis may now be upheld even when there is no suspicion of drug use at all. As one law scholar wrote, this approach to justice would be equal to eliminating the need for probable cause standards to search homes because there exists a strong state interest in eliminating crime. This is a dangerous trend. The Supreme Court And Student Drug Testing Today Citing a drug crisis in the Vernonia high school that the Supreme Court deemed to have reached "epidemic proportions," the Court ruled on June 26, to uphold a secondary school policy mandating urinalysis for all high school and junior high athletes regardless of individual suspicion of drug use. Particularly disturbing about this case is that Justice Scalia wrote the majority opinion for the Court. Justice Scalia had previously opposed the idea of mass testing without suspicion just six years prior, when he wrote a dissenting opinion in *Von Raab*. Such figures hardly represent an epidemic by any standards. By comparison, urinalysis of high-school students in the *Odenheim* case above had garnered more than twice as many positive tests in only one year. From this, he concluded that student athletes have an even lower expectation of privacy than does the general student body. This was because athletes also serve as role models, and are dressing and showering in close proximity to other students. This first point is debatable at best. All students are in some way role models to other students. Are not those in the honor society considered to be role models and representatives of the school? Could not the band, drama club, or any other public group be portrayed as such? The second point, however, should not be open to discussion. One could claim that mandatory gym class compels students to engage in many private functions such as showering. Should one assume, then, that public school is not for the bashful? The Court then determined that school officials cannot act as surrogate parents, but rather, they must act "as representatives of the State. Just as the courts once found discrimination against Asian Americans to be constitutional due to the growing national public intolerance of that race in World War II, so has the Supreme Court deemed it appropriate to disregard the Constitution when the parties in question are drug users. Such action was disgraceful fifty years ago and it remains disgraceful today. That case will determine whether a school district that does not have a demonstrated problem with student drug use may test all students who wish to participate in any extracurricular activities.

Chapter 5 : Blanket drug testing of college students declared unconstitutional - Campbell Law Observer

STUDENT DRUG TESTING: THE BLINDING APPEAL OF IN LOCO PARENTIS AND THE IMPORTANCE OF STATE PROTECTION OF STUDENT PRIVACY "Government is the potent, the omnipresent teacher.

This usually involves collecting urine samples to test for drugs such as marijuana, cocaine, amphetamines, phencyclidine PCP , and opioids both heroin and prescription pain relievers. In random testing, students are selected regardless of their drug use history and may include students required to do a drug test as a condition of participation in an extracurricular activity. Schools adopt random student drug testing to decrease drug misuse and illicit drug use among students. First, they hope random testing will serve as a deterrent and give students a reason to resist peer pressure to take drugs. Secondly, drug testing can identify teens who have started using illicit drugs and would benefit from early intervention, as well as identify those who already have drug problems and need referral to treatment. Is random drug testing of students legal? In June , the U. Supreme Court broadened the authority of public schools to test students for illegal drugs. The court ruled to allow random drug tests for all middle and high school students participating in competitive extracurricular activities. The ruling greatly expanded the scope of school drug testing, which previously had been allowed only for student athletes. Just because the U. Supreme Court said student drug testing for adolescents in competitive extracurricular activities is constitutional, does that mean it is legal in my city or state? A school or school district that is interested in adopting a student drug-testing program should seek legal expertise so that it complies with all federal, state, and local laws. Individual state constitutions may dictate different legal thresholds for allowing student drug testing. Communities interested in starting student drug testing programs should become familiar with the law in their respective states to ensure proper compliance. If a student tests positive for drugs, should that student face disciplinary consequences? The primary purpose of drug testing is not to punish students who use illicit drugs but to prevent future illicit drug use and to help students already using become drug-free. If a student tests positive for drugs, schools can respond to the individual situation. If a student tests positive for drug use but has not yet progressed to addiction, the school can require counseling and follow-up testing. For students diagnosed with addiction, parents and a school administrator can refer them to effective drug treatment programs to begin the recovery process. Why test teenagers at all? Most teens do not use illicit drugs, but for those who do, it can lead to a wide range of adverse effects on their behavior and health. Repeated drug use can lead to serious problems, such as poor academic outcomes, mood changes depending on the drug: Repeated drug use can also lead to addiction. Studies show that the earlier a teen begins using drugs, the more likely he or she will develop a substance use disorder SUD. An SUD develops when continued drug use causes issues, such as health problems and failure to meet responsibilities at home, work, or school. An SUD can range from mild to severe, the most severe form being addiction. Conversely, if teens stay away from drugs while in high school, they are less likely to develop an SUD later in life. For more information about health effects, see our Commonly Abused Drugs Charts. How many students actually use drugs? Findings from the Monitoring the Future MTF survey of 8th, 10th, and 12th graders showed that past-year use of illicit drugs other than marijuana is down from recent peaks in all three grades. What testing methods are available? There are several testing methods currently available that use urine, hair, oral fluids, and sweat. These methods vary in cost, reliability, drugs detected, and detection period. Schools can determine their needs and choose the method that best suits their requirements, as long as the testing kits are from a reliable source. Which drugs can be tested for? Various testing methods normally test for a "panel" of five to 10 different drugs. If a school has a particular problem with other drugs, such as 3,4-methylenedioxy-methamphetamine MDMA , gamma-hydroxybutyrate GHB , or appearance- and performance-enhancing drugs steroids , they can include testing for these drugs as well. It is also possible to screen for synthetic cannabinoids, commonly known as Spice and K2. Alcohol is a drug, and its use is a serious problem among young people. However, alcohol does not remain in the blood long enough for most tests to detect most recent use. Breathalyzers, oral fluid tests, and urine tests can only detect use within the past few hours. The cut-off is usually detection of the presence of alcohol for the equivalent of a blood alcohol

content greater than 0. How accurate are drug tests? Is there a possibility a test could give a false positive? The accuracy of drug tests from a certified lab is very high, and confirmation tests can help to rule out any false positives. Usually, samples are divided so that if an initial test is positive, a confirmation test can be conducted. Federal guidelines are in place to ensure accuracy and fairness in drug-testing programs. Can students "beat" the tests? Many drug-using students are aware of techniques that supposedly detoxify their systems or mask their drug use. Internet sites give advice on how to dilute urine samples, and there are even companies that sell clean urine or products designed to distort test results. A number of techniques and products are focused on urine tests for marijuana, but masking products are becoming more available for tests on hair, oral fluids, and multiple drugs. Most of these products do not work, are very costly, and are easily identified in the testing process. Moreover, even if the specific drug is successfully masked, the product itself can be detected, in which case the student using it would become an obvious candidate for additional screening and attention. In fact, some testing programs label a test positive if a masking product is detected. What has research determined about the utility of random drug tests in schools? Study findings in this area show mixed results, but researchers generally agree that student drug testing should not be a stand-alone strategy for reducing substance use in students and that school climate the quality and character of school life is an important factor for achieving success in drug prevention programs. Because there is not a clear benefit to drug testing in schools, the American Academy of Pediatrics "opposes widespread implementation of drug testing as a means of achieving substance abuse intervention. A NIDA-funded study published in found evidence of lower marijuana use in the presence of school drug testing and evidence of higher use of illicit drugs other than marijuana. Otherwise, the study found no causal relationships between school drug testing and patterns of substance use. The authors conclude that improving school climates is a promising strategy for preventing student substance use, while testing is a relatively ineffective drug prevention policy. The study found no impact of random drug testing reported by students not participating in testing on the intention to use substances, the perceived consequences of substance use, participation in activities subject to drug testing, or school connectedness. The authors conclude that drug testing should not be implemented as a stand-alone strategy for reducing substance use and that school climate should be considered before implementing drug testing. However, in two of four follow-up self-reports, student athletes reduced past-year drug use, and two assessments showed a reduction of drug and alcohol use as well. Because the conflicting findings between past-month and past-year substance use, more research is needed. Key Findings on Adolescent Drug Use. University of Michigan; Accessed February 17, Drugs of Abuse Reference Guide. Accessed February 16, Levy S, Schizer M. Adolescent Drug Testing Policies in Schools. Accessed March 6, Middle and high school drug testing and student illicit drug use: Sznitman SR, Romer D. Student drug testing and positive school climates: J Stud Alcohol Drugs. The effectiveness of mandatory-random student drug testing: Student drug testing in the context of positive and negative school climates: Outcomes of a prospective trial of student-athlete drug testing: This page was last updated May

Chapter 6 : Drugs and Testing “ Sports Law

If the test comes back positive for drugs, the student is placed on probation and must complete a drug-awareness course or counseling, submit a second urine sample within forty-five days, and will be subject to a third drug test to be administered randomly.

But for students at Linn State Technical College, there was one more item on the agenda: Strong , all incoming students at Linn State were required to submit to mandatory drug-testing. Linn State is a two-year, publicly funded technical college in Linn, Missouri. The program at issue, adopted by the Board of Regents in , requires mandatory drug testing of all incoming degree- or certificate-seeking students. Students are required to submit a urine sample within ten days of the start of the semester and the sample is tested for eleven drugs. If the test comes back positive for drugs, the student is placed on probation and must complete a drug-awareness course or counseling, submit a second urine sample within forty-five days, and will be subject to a third drug test to be administered randomly. If either of the subsequent tests return positive, the student will either be required to withdraw or will be administratively withdrawn from the school. Refusal to submit to the drug test will result in automatic withdrawal, unless the President, in his discretion, waives the requirement for reasons such as unique health and safety issues or moral, philosophical, or religious objections. On November 18, , the U. District Court for the Western District of Missouri granted a preliminary injunction, prohibiting Linn State from further collecting or testing urine samples. On July 1, , the district court conducted a bench trial and upheld the mandatory drug testing policy as it applies to students enrolled in programs that the court determined to be safety-sensitive i. This order permanently enjoined Linn State from drug testing students who enrolled in programs that do not pose significant safety risks to others. The plaintiffs in this case argue that since the drug tests are a blanket requirement and are not based on any suspicion of actual drug use, they amount to unreasonable searches under the Fourth Amendment. Miller , the United States Court of Appeals for the Eleventh Circuit held that collecting urine samples for drug testing is a search within the meaning of the Fourth Amendment. The Fourth Amendment generally prohibits searches without probable cause, but in Griffin v. The court based this finding on the rationale of the Supreme Court in Skinner v. Linn State offers 28 different programs that are divided into six categories: Within these categories are safety-sensitive programs, such as aviation maintenance and heavy equipment operations, as well as programs that are not safety-sensitive, such as design drafting. As Vernonia School District v. Earls demonstrate, application of the Kittle-Aikeley decision is limited in scope to colleges. These Supreme Court cases upheld suspicion-less drug testing of students participating in athletics and other competitive extra-curricular programs at high schools and middle schools. In order to survive a Fourth Amendment challenge, colleges with similar policies must show special needs such as the one shown here for safety concerns. Other special needs could be demonstrated by a campus drug use crisis greater than that experienced by other colleges, which Linn State failed to establish. Blanket suspicionless drug testing policies will not be upheld solely on the basis that they promote healthy and productive work environments. Additionally, any policy that requires drug testing of all students is very unlikely to survive a Fourth Amendment challenge. With chapters in nearly every state, the Students for Sensible Drug Policy Organization , along with the ACLU , stands ready to assist students in fighting constitutionally unreasonable drug testing programs.