

STUDENT DRUG-TESTING PROGRAMS

An Overview and Resource Guide



STUDENT DRUG-TESTING COALITION

Helping students pursue a better future.

Compiled and written by:

C. E. Edwards, Arizona H.I.D.T.A.
Demand-Reduction Office

and

The Student Drug-Testing Coalition
www.studentdrugtesting.org

First Edition

©2004 C. E. Edwards & The Student Drug-Testing Coalition

This program manual and all updates copyrighted by C. E. Edwards & The Student Drug-Testing Coalition. To maintain the integrity and quality of this manual, it may not be altered or copied without the express written consent of C. E. Edwards & The Student Drug-Testing Coalition. Duplication of up to four (4) pages permitted with:

- 1) Credit line on each page: C. E. Edwards & The Student Drug-Testing Coalition
©2004

- 2) Mail copy of published use to:
C. E. Edwards, Demand Reduction Office
Arizona H.I.D.T.A
6868 S. Plumer Ave., Tucson, Az 85706
Toll-free: 877-817-6809
azhidta@earthlink.net

Disclaimer: The material provided herein is not intended to be a substitute for legal advice to any school and/or school district and is provided for general informational purposes only. The applicability of any federal law or regulation to any school and/or school district, and the advisability of carrying out a drug-testing program, should be determined by each school and/or school district on an individual basis after carefully considering legal obligations and requirements. Specific legal issues should be referred to legal representatives of the school and/or school district.

C. E. Edwards, the Arizona H.I.D.T.A. and The Student Drug-Testing Coalition disclaim responsibility for any claims, losses, or damages alleged by any person or entity as a result of the use of the materials compiled in this overview manual. Every effort has been made to insure accuracy. This manual is intended for instructional purposes only.

C. E. Edwards, 2004

Acknowledgments:

Editing and proof-reading: Carmen Wilkes, Arizona Dept. Of Public Safety

TABLE OF CONTENTS

About The Student Drug-Testing Coalition	
Mission and purpose statement	1
Coalition membership	2
Student drug-testing programs - the facts and the need	3
What parents, experts and educators say about student drug-testing	4
Random drug-testing programs	7
Eligibility for student random drug-testing programs	8
Student drug-testing program components and procedures	
Components of a student drug-testing program	9
Recommended standards	10
Drug-testing procedures overview	11
Effectiveness of student random drug testing	13
Institute for Behavior and Health Study for U.S. Department of Education	14
McKinney Studies of 2001, 2003, 2004	16
SATURN Study for National Institutes of Health and Drug Abuse (NIH & NIDA)	18
Hunterdon Central Regional High School study	20
Legalities of student random drug-testing programs	22
Landmark U. S. Supreme Court case rulings	23
Federal Circuit Court rulings of significance	24
State Court rulings of significance	25
Appendix A	
Current data	A-1

ABOUT THE STUDENT DRUG-TESTING COALITION

MISSION AND PURPOSE STATEMENT

The Student Drug Testing Coalition's mission is to help students pursue a better future. The coalition is a volunteer organization consisting of leaders of drug-prevention organizations and concerned parents who believe that non-punitive student drug-testing programs are the most effective and economical means to reduce student drug use. The coalition is dedicated to encouraging each school district to evaluate the documented effectiveness of non-punitive student drug-testing programs as the most effective method to ensure that their schools are drug free. The coalition's primary goal is to assure that each school board and principal has the information, resources and funds necessary to implement a non-punitive student drug-testing program.

The coalition's objectives are to:

- (1) Assist school administrators and parents to become knowledgeable about the mental and physical consequences of drug use and that drug use encourages truancy, disruptive class behavior, lack of teacher respect, bullying, and violence. Further, student drug use interferes with learning and academic achievement and is a threat to not only the drug users but, as importantly, to all students and teachers.
- (2) Educate school administrators and parents about the dangers of students driving or parking on school property or participating in driver education while under the influence of drugs.
- (3) Provide school administrators and parents information concerning the effectiveness of non-punitive student drug-testing programs including the documented improvement in class room behavior, academic achievement and the reduction in school violence. Enable school administrators to increase the safety of students driving or parking on school property, including those participating in driver education.
- (4) Assure that school districts have access to information to correctly implement non-punitive student drug-testing policies and programs that meet constitutional and privacy requirements.
- (5) Establish a means for school districts to exchange ideas and information about student drug- testing programs and to support schools in meeting any legal challenges and frivolous lawsuits.
- (6) Assure that local and national legislators are aware that student drug testing is a proven and economical method to substantially reduce student drug use.

Helping students pursue a better future

COALITION MEMBERSHIP

Malcolm K. Beyer, Jr.
Chairman

Dan Bent, Esq.	Fair Mediation
Lisa Brady	Principal, Hunterdon Central Regional High School
Paul Connick, Jr., Esq.	Jefferson Parish District Attorney
Robert L. DuPont, M.D.	President, Institute for Behavior and Health, Inc.
Elizabeth Edwards	Arizona H.I.D.T.A. Demand-Reduction Coordinator
David Evans, Esq.	Executive Director Drug-Free Schools Coalition, Inc.
Calvina Fay	Executive Director, Drug-Free America Foundation, Inc. and Save Our Society From Drugs
Joseph C. Franz, M.D.	Medical Director, SPORT SAFE Testing Service, Inc.
Matt Franz	SPORT SAFE Testing Service, Inc.
Linn Goldberg, M.D. FACSM	Professor of Medicine, Oregon Health & Science University
Dr. Harvey Graves	CEO/President Pinnacle Employee Testing Services, Inc.
Stephanie Haynes	Advisor, Drug-Free America Foundation
Ginger and Larry Katz	Founders, The Courage to Speak Foundation, Inc.
Carla Lowe	The Legal Foundation Against Illicit Drugs
Jacqueline Mazza	Research Assistant/Project Manager, Institute for Behavior and Health, Inc.
Joseph R. McKinney, J.D., Ed.D.	Chairman, Dept. of Educational Leadership, Ball State University
Joyce Nalepka	President, Drug-Free Kids: America's Challenge
Eladio M. Paez	President, Precise Detection, a division of Precise Protective Research, Inc.
Laura Shelton	Executive Director Drug and Alcohol Testing Industry Association (DATIA)
Ivan Van Damme, M.D.	The International & Scientific Forum on Drug Abuse; Europe Against Drugs (EURAD)

STUDENT DRUG-TESTING PROGRAMS THE FACTS AND THE NEED

- # By the 12th grade more than one-third of high school seniors have used drugs.¹
- # Teens surveyed say drugs are their number one concern.²
- # 50% of high-school students and 24% of middle-school students report they attend schools where drugs are used, kept or sold.³
- # At schools where drugs are used, kept, or sold 46% of students have witnessed drug use and 43% of students have witnessed illegal drug sales - all on school grounds - as compared to no students at drug-free schools witnessing use or sales.⁴
- # Substance abuse adds at least \$41 billion dollars to the costs of elementary and secondary education in terms of special education, teacher turnover, truancy, property damage injury, counseling, and other costs.⁵
- # Schools that have implemented non-disciplinary student drug testing programs have found the programs to be effective in reducing drug use and improving the learning environment for all students.⁶
- # 94% of Indiana high school principals in a 2003 survey believed the random drug-testing policy to be effective in discouraging drug and alcohol use by students.⁷

Helping students pursue a better future

¹ PRIDE 2002-2003 National Summary, August 2003. Over 35% of 12th grade students used marijuana and 7.1% used cocaine within past year.

²National Center on Addiction and Substance Abuse at Columbia University, August 2004: National Survey of American Attitudes on Substance Abuse IX, Teen Dating Practices and Sexual Activity.

³Ibid.

⁴Ibid.

⁵The National Center on Addiction and Substance Abuse at Columbia University. "Malignant Neglect: Substance Abuse and America's Schools". September 2001.

⁶Institute for Behavior and Health, Inc., "Preliminary Study of Student Drug Testing Programs" for the U.S. Dept. of Education, August 2002. DuPont, Robert L. M.D., et al.

⁷McKinney, Joseph R., J.D., Ed.D. "The Effectiveness of Random Drug Testing Programs: A Statewide Follow-up Study" 2003.

WHAT PARENTS, EXPERTS AND EDUCATORS SAY ABOUT STUDENT-DRUG TESTING PROGRAMS

What do the majority of adults nationwide think about student drug testing?

When asked, "*Do you think school districts should or should not be allowed to test public school students for illegal drugs before those students can participate in non-athletic activities,*" it was found that the **majority** of those polled (1,020 adults nationwide) **SUPPORT student drug testing.**

70% of adults responding said they thought student drug testing should be allowed.

29% responded that student drug testing should not be allowed.

1% had no opinion on student drug testing.

Source: CNN/USA Today Gallup Poll (June 21-23, 2002) <http://www.pollingreport.com/education.htm>

What do parents say about student drug testing?

"Recent newspaper accounts of the Supreme Court hearing on student drug testing on 3/19/02 included a picture of Pennsylvania mother Sharon Smith holding a poster that featured a photo of her daughter who had died of a drug overdose. We were there with posters featuring a picture of our child as well. My son Ian died September 10, 1996. He was only 20 years old. We wanted the court and other Washington government officials to know that we believe that student drug testing could have saved our children's lives."

Source: Ginger and Larry Katz, Founders of The Courage To Speak Foundation, Norwalk, CT

"10 reasons why . . . support student drug testing:

Adam, 18, deceased.

Mark, 24, deceased.

Garrett, 22, deceased.

David, 26, deceased.

Billy, 17, deceased.

Cooper, 22, deceased.

Ian, 21, deceased.

Angela, 18, deceased.

Michael, 22, deceased.

Stephanie, 19, deceased.

The parents of these young people believe their children might still be living had their school systems supported their parental message of "no drugs" by drug testing the students."

Source: Joyce Nalepka, President Drug, Free Kids: America's Challenge. Washington Post, March 23, 2002

What do experts on youth drug use and student drug-testing programs say?

“The school years are a critical passage in a young person's life. While in school, children face the challenge of learning in the academic, social, physical, and emotional realms. When drugs infect a school it cripples the learning process. Children become casualties. The physical and psychological effects of drug and alcohol use can cause lifelong and profound losses. Substance use decreases a child's chances of graduation and academic success.”

Source: David G. Evans, Esq., Executive Director of the Drug-free Schools Coalition. Flemington, NJ

"The evidence is clear that student drug testing will keep drugs and violence out of our nation's schools. We know from our own coalitions, and from examples in this (ONDCP booklet 'Drug Testing in Schools'), that drug testing works."

Source: CADCA Chairman/CEO Gen. Arthur T. Dean

"There is one method that stands out as the most effective prevention method today, and that is student drug testing. [It is] the most effective demand-reduction tool, I believe, that this country has ever known..."

Source: Former New Orleans District Attorney Harry Connick

“I applaud [the] Supreme Court decision to approve random drug tests for public high school students...Drug testing is [a] proven weapon in the fight to keep our kids off drugs.”

Source: CASA Chairman and President Joseph A. Califano, Jr.

“ [W]e find that testing students who participate in extracurricular activities is a reasonably effective means of addressing the School District’s legitimate concerns in preventing, deterring, and detecting drug use.”

Source: Justice Clarence Thomas, U.S. Supreme Court in its ruling June 27, 2002 in Board of Education ISD #92 of Pottawatomie v. Earls, et al.

“This failure to protect our children from drug use and addiction is unacceptable. We cannot responsibly withhold tools as effective as drug testing from communities that believe such measures are appropriate and will save young lives.”

Source: John P. Walters, Director of the Office of National Control Policy in the foreword to its 2002 publication 'What you need to know about drug testing in schools'

What do educators say about student drug testing?

“Those of us charged with ensuring the safety and well-being of students and staff must take seriously the threat imposed by students' illegal drug use. We can no longer simply say that the measures we have employed previously are enough. The challenge before school boards and communities is clear.

We need to do a better job helping our teenagers say no to drugs. The Supreme Court has paved the way for stronger, stricter interventions. The dramatic success of our program at Hunterdon Central makes this challenge abundantly clear: Why do student random drug testing? You do it because it works.”

Source: Lisa Brady, Principal of Hunterdon Central Regional High School, New Jersey. In a commentary from the Student Assistance Journal, Summer 2003, Vol. 15, No. 3

“Without a doubt, mandatory drug testing, when put in place for the right reasons, and with careful consideration to its implementation, is an extremely positive and effective deterrent to the use of drugs.”

Source: Mike Motheral, Superintendent of Schools, Sundown (Texas) ISD

"We have had only 6 positive-test results since adding random drug-testing to our prevention programs in 1998. Some community members have asked me why don't we just stop the program. I responded: What, are you kidding. We've saved 6 kids. Even if we only save one more--what's a child's life worth?"

Source: Michael Barber, Assistant Superintendent of Pell City Schools, AL

STUDENT RANDOM DRUG-TESTING

One component of a drug-prevention program

Benefits of a student random drug-testing program:

- < Deters student drug use
- < A proven intervention program
- < Reduces school suspensions and expulsions
- < Enhances existing drug-prevention programs
- < Creates a safe, drug-free learning environment
- < Gives students a reason to say “NO” to drug use
- < Involves parents in school drug-prevention efforts
- < A fair and accurate method of detecting drug use by students
- < A program with strict privacy and confidentiality requirements
- < Reduces violent behaviors, classroom disruptions, truancy and criminal activity
- < A means to obtain assessment, counseling, and treatment for youth involved in drugs

What a student random drug-testing program is NOT:

- < A means to expel students
- < A program involving law enforcement
- < A punitive program, with academic consequences
- < A record of drug use that will follow the student when leaving the school
- < A replacement for parental involvement and other drug-prevention efforts
- < A means to determine what prescription drugs students may be using legitimately

STUDENTS ELIGIBLE FOR RANDOM DRUG TESTING

U. S. courts have supported random testing of students participating in:

- < Athletics⁸
- < Extra-curricular activities⁹
- < Students with parking passes or driving on school property¹⁰

U. S. courts have **NOT** upheld random testing of students when:

- < All students are subject to the random drug-testing program¹¹
- < When the testing program required consequences for a positive nicotine test¹²
- < When students were required to inform the school of any prescription medications being taken¹³

See <www.studentdrugtesting.org> for summaries of case rulings

⁸U. S. Supreme Court, *Vernonia v. Acton*, 1995 ruled that random testing of student athletes does not violate the U. S. Constitution.

⁹U.S. Supreme Court, *Board of Education ISD #92 of Pottawatomie v. Earls, et al.* June 2002 ruled that random testing of students in extra-curricular activities does not violate the U.S. Constitution. U. S. Supreme Court (536 U.S. 822 [2002]) No.01-332. Argued March 19, 2002. Decided June 27, 2002.

¹⁰ *Todd, et al. v. Rush County Schools* U. S. Seventh Federal Circuit Court of Appeals 133 F.3d 984. Argued November 5, 1997; Decided January 12, 1998; United States Court of Appeals, *Joy v. Penn-Harris-Madison School Corp.*, Seventh Circuit, Case No. 99-2261. 212 F.3d 1052 (7th Cir. 2000) Argued Nov. 12, 1999, Decided May 12, 2000.

¹¹*Odenheim v Carlstadt-East Rutherford School District* New Jersey Superior Court 510 A.2d 709. 1985; *Tannahill v. Lockney Independent School District* Northern District Court of Texas (133 F. Supp.2d 919, Northern District, Texas) Decided March 1, 2001

¹²United States Court of Appeals, *Joy v. Penn-Harris-Madison School Corp.*, Seventh Circuit, Case No. 99-2261. 212 F.3d 1052 (7th Cir. 2000) Argued Nov. 12, 1999, Decided May 12, 2000.

¹³*Weber v. Oakridge School District* 76 Oregon State Supreme Court 16-00-21584; A114141. Appeal from Circuit Court, Lane County. The Oregon State Supreme Court denied Certiorari in *Weber v. Oakridge School District* 69 P.3d 1233 (OR 2003). Court of Appeals ruling prevails.

STUDENT DRUG-TESTING PROGRAM COMPONENTS

Standard components of a student drug-testing program:

- < Written Policy
- < Faculty drug identification training
- < Student drug-education programs
- < Student-assistance programs
- < Drug-testing program (random, reasonable suspicion, for cause)

STUDENT DRUG¹⁴ TESTING: THE STANDARDS

- # All student drug-testing records shall be kept strictly confidential in accordance with *written* school policy and the Family Education Rights and Privacy Act (FERPA)¹⁵
- # All test-result notifications and collections shall be done following strict privacy and confidentiality guidelines as established in a *written* policy.
- # Drug-testing procedures shall be applied consistently to all students subject to testing.
- # Drug-test procedures shall include confirmatory testing at a state licensed or federally certified laboratory using spectometry (as applicable) when a screening-test result is positive.¹⁶
- # A certified Medical Review Officer (MRO) shall review and rule on all confirmed-positive drug-test results.
- # Parents or legal guardians, the student, and school personnel (*on a need-to-know basis*) shall be the *only* persons notified of test results by the MRO. Law enforcement is not notified.
- # All records relating to and *including* student drug-test results shall be destroyed by the school/district upon graduation or other departure of the student from the school district.
- # Any drug-screening tests conducted using on-site test kits, shall be done using products with FDA 510(k) pre-market clearance.¹⁷ Alcohol tests should meet federal standards, have FDA clearance or be approved by the National Highway Traffic Safety Administration.
- # Choice of specimens to be used for drug and alcohol testing is at the discretion of the school/school district.¹⁸

Helping students pursue a better future

This information is meant solely to provide an overview of generally accepted minimum standards for any drug/alcohol testing program and in no manner constitutes recommendations or technical information as to an appropriate testing method.

¹⁴The term "drug" refers to alcohol, illicit and licit drugs.

¹⁵FERPA, signed into law on August 21, 1974, was passed to protect the privacy of student education records. The original law took effect November 19, 1974. It has been amended six (6) times since passage, with the last amendment being in October of 1998. Covers records, files, documents and other materials containing information directly related to a student and that are maintained by an educational agency or institution.

¹⁶Spectometry such as GC/MS, GC/MS/MS, LC/MS/MS depending upon the specimen used for testing (i.e. urine, hair, saliva etc.).

¹⁷ FDA 510(k) pre-market clearance provides that a test kit function as it was designed & marketed to function; its efficacy is supported by scientific studies; and that manufacturers comply with federal labeling requirements and federal regulations

¹⁸School districts may wish to consider following established drug-free workplace standards and practices, as well as giving consideration to testing standards, practices and specimen types that are proven to be legally defensible and reliable. A review of case law and statutes on student or workplace drug testing may provide guidance.

OVERVIEW OF DRUG-TESTING PROGRAM PROCEDURES

Specimens may be:

- < Urine
- < Oral fluids
- < Sweat
- < Hair
- < Breath (for alcohol testing if access to breath testing equipment)

Most programs test for the presence of illicit drugs & alcohol:

- < Using a standard 5-panel screen for marijuana, PCP, opiates, amphetamines, cocaine
 - < In addition, some school districts test for steroids, nicotine, alcohol and/or club/designer drugs
- Note: Marijuana remains the most-common drug of choice of young people*

What is the cost of a drug test?

On average, a student drug test will cost between \$10.00 and \$30.00 using urine or oral fluids specimens.

Compare this to the \$700.00 cost of equipping a high school football player.

Collection Methods (should follow well-established standards and procedures):

- < Usually on-site by trained faculty member, school nurse or drug-testing program contractor
- < Private and unobserved
- < Secured restroom facility to eliminate tampering/adulteration
- < Chain of custody procedures adhered to for all specimens
- < Specimen handling documented through entire process

What is the purpose of Medical Review Officers (MROs)?

MROs review all confirmed positive-test results to determine if there is a legitimate reason (i.e., valid prescription drug use) for the positive-test result. When there is legitimate prescription drug use, the test is ruled negative and the school is not informed of the prescription drug use. This protects the privacy of the student and prevents the school from exceeding legal

Testing Process:

- < Screening or initial test may be on-site with kit or specimen may be sent to a laboratory
- < Confirmatory test is **always** at a laboratory and **always** recommended when screening result is positive
- < Review of all confirmed-positive test results by a Medical Review Officer (MRO)
- < Reporting of results to school-designated representative via secured communication

School handling of drug-test results:

- < Privacy and confidentiality protections in place for students and the school district
- < Notification of drug-test results to parent/guardian and the student
- < Positive-result test consequences are usually suspension from the qualifying activity for a specified period of time
- < Student assistance involvement and community referrals as necessary which may be handled by a Student Assistance Professional, a school counselor, student advisor or the parents
- < Requirement for student to be drug-free as a condition of returning to the qualifying activity
- < Destruction of the drug- testing records upon student's departure from the school district or upon graduation

Student Assistance Programs (SAPs)

- 1) Define a school's role in creating safe, disciplined and drug-free learning environments and to clarify the relationship between student academic performance and the use of alcohol, other drugs, violence and high-risk behavior;**
- 2) Educate parents, students, agencies and the community about school policy on alcohol, tobacco, other drugs, disruptive behavior and violence and provide information about student assistance;**
- 3) To identify & refer students with academic and social concerns to a multi-disciplinary problem-solving and case management team;**
- 4) To provide information, support and problem-solving skills to students who are experiencing academic or social problems;**
- 5) To build bridges among schools, parents and community resources through referral and shared case management;**
- 6) To integrate student assistance services with other school-based programs designed to increase resilience, improve academic performance and reduce student risk for alcohol, tobacco, other drugs and violence.**

EFFECTIVENESS OF STUDENT RANDOM DRUG-TESTING PROGRAMS

Studies demonstrating the effectiveness of student drug-testing programs to decrease and deter student drug use are readily available. The most interesting and conclusive studies as to the effectiveness of a student random drug-testing program, are those containing data of student drug use prior to implementation of a drug-testing program. Anecdotal evidence from school administrators, coaches and principals is widely available.

Several such leading studies are presented in this manual in summary form. The full study reports may be obtained at www.studentdrugtesting.org

A controversial and well publicized study by University of Michigan researchers is also presented at the web site along with an analysis of the study and why it *cannot be relied upon as definitive* in correlating student drug use and random-testing programs in schools. The study has been widely criticized by researchers and others. In its analysis and critique of the study, The Student Drug-Testing Coalition has called for a peer review of the work. *This study did not determine the effectiveness of student random testing programs.*

Student random drug testing works!

INSTITUTE FOR BEHAVIOR AND HEALTH (IBH) STUDY FOR THE U.S. DEPARTMENT OF EDUCATION 2002

This 2001-2002 school-year survey of nine schools provides detailed information on the components of a student random drug-testing program. There were 7 public schools and 2 private schools in the study, from suburban, rural and urban locations in several states throughout the U.S. The programs, which all include random testing, have been in place for an average of 3-4 years. In completing the surveys, the student drug-testing program representative provided information about the program's policies, procedures, history and results.

The goal of this preliminary study by IBH is to capture the initial experiences of these early adopter schools to produce a picture of current SDT practices and to identify problems as well as successes from these early efforts. The study findings are presented in two forms. In the Results section the data from the 9 school programs are pulled together to give a picture of their collective experiences. In the Appendix of the report, a detailed description of each of the 9 school programs is provided.

A major variation in programs was in the categories of students tested (ranging from athletes only to all extracurricular activities plus student drivers to all students). As might be expected, the consequences of positive tests varied among schools, with only the private schools expelling students after a second positive test [ed. note: Private schools are not subject to state or federal constitutional considerations and may test all students].

Another variation was in the substances that were routinely tested for. Most included the 5 drugs that form the standard core of drug testing (marijuana, cocaine, amphetamine/methamphetamine, opiates and PCP), but there was considerable variation in how many other substances were included. Linked to the variation in substances tested for was a considerable range in the reported lab fees.

What is most striking in the study's findings are the common elements identified by these pioneer programs. All of the student drug testing programs were based upon a health and safety rationale, with the purpose of prevention rather than punishment. In every school surveyed the student drug testing program was just one part of a larger, comprehensive initiative to keep students safe from drugs.

Formal written policies were established and publicized. Procedures were implemented to prevent fraud, ensure accuracy, and protect the confidentiality of test results. None of the schools reported students with positive drug tests to the police. Instead, the route was for counseling and treatment.

Programs' successes were indicated by reduced number of positive tests, lowered levels of disciplinary problems and, in some cases, self-report survey data. Despite some schools' concerns about-or direct experience with-legal challenges and objections from particular groups within the community, these student drug-testing programs have persisted and appear to have won increasing support from the various groups.

Lessons learned and advice to other schools strongly emphasize the importance of involving the various stakeholders in the planning process and making sure they understand that the program is intended to help students say no to drugs.

All schools retain the student random drug-testing programs because drug use has been reduced along with the behaviors and problems associated with drug use by students. This study also provides information on the costs of drug testing for schools.

McKINNEY STUDIES OF INDIANA HIGH SCHOOLS 2001, 2003, 2004

1) The Effectiveness and Legality of Random Drug-Testing Policies, 2001: Principals were asked to compare drug and alcohol activity during the 1999-2000 school year when drug-testing policies were in effect with the 2000-2001 school year when schools were not allowed to continue with their random drug-testing policies.¹⁹

Overview of results (Published 2002):

- < 85% of the high school principals reported an increase in either drug usage or alcohol usage among their students after the drug-testing program was stopped, compared to the 1999-00 school year (when they had a drug-testing plan implemented).
- < 80% reported an increase in illicit drug usage during the 2000-01 school year compared to the previous year.
- < 59% reported an increase in alcohol usage during the 2000-01 school year compared to the previous year.
- < 78% of the principals reported that there was an increase (compared to the 1999-00 year) in the number of students who came forward and told them that drug and alcohol usage was on the rise since the drug-testing program was stopped.
- < Principals reported a statistically significant number of more students suspended or expelled for drug or alcohol related incidents during the 2000-2001 year than the previous year (with SDT).
- < 89% of the principals believe that the drug-testing program undermines the effects of peer pressure by providing a legitimate reason to refuse to use illegal drugs and alcohol.
- < 97% of the principals said their community supported the drug-testing program.

2) The Effectiveness of Random Drug Testing Programs: A Statewide Follow-up Study, 2003:

This study is presented as a follow-up to the 2002 study. Its purpose was to determine how many schools in Indiana re-implemented random drug-testing programs after suspending those programs in the late summer of 2000. It also investigated the effectiveness of the re-implemented drug-testing programs as compared to the previous school year when random drug testing was suspended.

Overview of results:

- < 94% of principals reported believing that the random drug-testing policy discourages drug and alcohol use among students.
- < 88% (52) of high school principals responding to the survey reported re-implementation of random drug-testing at their schools.
- < 73% of the principals reported a decrease in drug usage (compared to the period without a random drug-testing program) among students who are subject to the drug-testing policy.

¹⁹The Indiana Court of Appeals ruled that random drug testing policies for students were unconstitutional under the Indiana Constitution in August 2000. (*Linke v. Northwestern Sch. Corp.*, 734 N.E. 2d 252 (Ind. Ct. App. 2000)). All Indiana schools halted their random drug testing programs after the decision and waited for a decision by the Indiana Supreme Court. The Indiana Supreme reversed the appellate court in the summer of 2002 and school districts in Indiana have reinstated their programs or are considering implementing random drug testing programs.

- < 25% of principals reported that drug use "remained the same" and 2% (1) reported an increase in drug usage.
- < 51% of the high school principals reported a decrease in alcohol usage (compared to the period without a random drug-testing program) among students at their school who are subject to the random drug-testing policy.
- < 45% of principals reported that alcohol use "remained the same" and 4% reported an increase in the use of alcohol.
- < 26% of principals reported that their drug-testing program did not test for alcohol. Most of these principals responded to the alcohol use question with "remained the same".
- < 40% of principals responding to the survey reported that fewer students had been suspended from participation in athletic programs for drug use since re-implementation of the random drug-testing program.

3) Study of High Schools with SDT Programs, 2004:

Summary of results:

- < 80% (42/52) of High Schools with SDT programs in 2002-03, scored higher than the State average on the State mandated graduation test (grades 10-12).
- < A statistically significant number of High Schools (37/52 - 71%) with SDT programs in 2002-03 had graduation rates higher than the State average 0.001 Z test.
- < SDT provides positive effects for students not involved in drug use.
- < Number of expulsions and suspensions due to drugs, alcohol and weapons for SDT high schools showed a 30% reduction.

Dr. McKinney also reviewed and summarized data from Columbus, IN survey data of students at two high schools in that community. The high schools have surveyed students regarding alcohol, tobacco and drug use every 2 years since 1995. The high schools evaluated began SDT programs in 1999. The Indiana Prevention Resource Center (IPRC) coordinates the student self-reporting questionnaire (ATOD).

Key findings: Comparing 2001 to 2003

- < Participation in athletics, clubs, intra-murals, art programs extracurricular activities: There was no significant difference in the number of students participating in athletics and extracurricular activities when High School had SDT program compared to no SDT program. In fact, direction was toward increased participation in all grades in 2003.
- < In the past month, students in all four grades (9-12) reported that the frequency of serious arguments involving shouting were significantly down. In the frequency of physical fights, grades 10 and 12 reported fights significantly down.
- < 90.5% of students stated that they thought SDT is effective in deterring substance abuse.

SATURN AND RELATED STUDIES

Oregon Health Sciences University, Portland, Oregon

1. 1999: Acceptability and potential deterrent effects of drug testing.

Results of the survey were presented to the American College of Sports Medicine (ACSM) 1999 in Seattle. Research conducted by L. Goldberg, MD, FACSM; D. Elliot, MD, FACSM, E. Moe; K. Kuchl; G. Clarke. The full study report was published in 'Medicine and Science in Sports and Exercise', 1999:31(5)S123 and was supported by the National Institutes of Health, Drug Abuse.(NIH & NIDA)

Summary:

To assess the use of alcohol and other drugs in athletes, male (n=1506) high school football players and adolescent females (n=2085) were surveyed. Results included lifetime use of alcohol (76.2% male, 65.3% female), marijuana (29.4% male, 14.8% female) and amphetamines (8.4% male, 7.8% female). Also surveyed by confidential questionnaire 1299 were students from 28 high schools to determine potential deterrent effects and acceptability of drug testing. Of those surveyed, only a small minority (<9%) said they would use drugs and just 12% claimed they would continue to use alcohol if random drug testing were school policy. Importantly, drug testing received broad support. This preliminary data suggests high acceptability and potential benefit by such a program.

2. 1999-2000: Pilot study of two public high schools comparing a school with a student random drug-testing program to a school without a student random drug-testing program. Structure of study: Student athletes at Wahtonka high school were subject to random drug testing, while student athletes at Warrenton high school were not subject to random drug testing; approximately 276 student athletes participated (drug tested=135, not drug tested=141).

Preliminary findings reported:

- < Wahtonka (with testing program) reported a drug-use rate one-quarter that of Warrenton;
- < 5.3% of Wahtonka students (with testing program) said they were using illegal drugs as compared to 19.4% of Warrenton students; and
- < Wahtonka student athletes (subject to drug testing) were less than one-third as likely to use performance-enhancing substances as athletes at Warrenton.

3. 2000-01: Student Athlete Testing Using Random Notification Study (SATURN Study)

Report on preliminary results of a three-year pilot study begun in the 2000-01 school year. Reported by its coordinator, Linn Goldberg, MD, FACSM of the Oregon Health Sciences University, during the U. S. Department of Education, Office of Safe and Drug-Free Schools Annual Conference, October 2003, Washington, D.C.. The SATURN Study is being conducted with support from NIH and NIDA. Structure of the study: 13 schools participating; 7 conduct random testing of athletes at a 50% random-test rate; 5 of the 7 schools conduct testing during the entire school year, 2 schools random test during the athletic season only; student surveys have been conducted for two years; 6 schools do not randomly drug test athletes.

Preliminary findings:

- < There were no decreases in sport-activity participation by students when subjected to a random drug-testing program, in fact, **an 11% increase in participation was found;**
- < a 50% random test rate appears to be an adequate level to deter drug use, since students believed that there was a strong likelihood they would be tested;
- < heavier alcohol users may decrease their use when subject to random drug testing;
- < heavier marijuana users may be deterred when subject to testing; and
- < drug testing appears to deter frequent drug users rather than the 'experimenters'.

[It should be noted that the studies shown above were designed and implemented prior to a 2002 Supreme Court ruling that expanded student drug testing to include not only athletes, but students in extra-curricular activities. More complete data analysis of the two-year randomized trial is being performed.]

HUNTERDON CENTRAL REGIONAL HIGH SCHOOL STUDY

Impact of student random drug-testing program on drug use by students

Survey Periods: 1997, 1999, 2002

Student groups tested: Athletes 1997-2000 school years, then re-implemented December 2002; students participating in extra-curricular activities initially implemented February-August 2000 and re-implemented December 2002; students holding parking passes initially implemented December 2002.²⁰

Conclusions:

Hunterdon Central Regional High School experienced an overall **decrease** in student drug use over a three school-year period (1997-2000) during which time the only change to its substance abuse programs was the implementation of a random drug-testing program covering student athletes. Hunterdon Central Regional High School experienced an overall **increase** in student drug use over a two school-year period (2000-2002), during which time the only change to its substance abuse programs was the **suspension of the random drug-testing program** covering student athletes.

The highest percentage of students taking the surveys, representing all four grade levels, indicated negligible or no drug use consistently throughout the three survey periods demonstrating that a high percentage of Hunterdon high school students do not use drugs.

Summary of Results:

For the period 1997-1999, during which the student body was surveyed two times (1997 and 1999), the high school saw a decline in drug use from the 1997 pre-random student athlete drug testing program levels within the *entire* student population, not just the student group subject to random drug testing during the period as compared to the post-random drug testing program levels.

Overall, the high school experienced a decline in single-drug and multi-drug use, as well as a decline in the use of alcohol. Declines in the use of most drugs surveyed were clearly evident within the 9th, 10th, and 12th grade levels. However, there was an increase in the percentage of 12th grade students trying marijuana but indicating no current use. The decline in drug use amongst 11th grade students was to a lesser extent than the decline shown by the other three grade levels and in several categories there were increases for this grade level in: 1) patterns of drug use-light marijuana use; 2) ever tried a drug-use of narcotics other than heroin; 3) used a drug in the past month-PCP and alcohol.

For the period 2000-2002, during which the random drug testing of student athletes had been suspended pending outcome of litigation, results of the 2002 survey of students showed that drug use

²⁰August 2000 the school was targeted for lawsuit by the ACLU. The random testing program was suspended until the school prevailed in the appellate court in July 2002 leading to re-implementation of the program in December 2002. The school continued the random drug testing program while the ACLU appeal to the New Jersey Supreme Court was under consideration. The NJ Supreme Court ruled in the school's favor July 9, 2003.

increased in the majority of categories surveyed, including the multi-drug use category which *increased* by more than 169% for all four grade levels combined over the 1999 surveyed levels. In some categories, drug use increased to levels higher than those found prior to implementation of the random drug testing program in 1997. The eleventh grade again stood out from the other three classes in that increases in multi-drug use (52%) were only about one-half or less of any of the other three classes reported increases (9th grade-316% increase, 10th grade-100% increase and 12th grade-209% increase in multi-drug use).

LEGALITIES OF STUDENT RANDOM DRUG-TESTING PROGRAMS

The legal issues of student drug-testing programs are of concern to school administrators when considering a student random drug-testing program. However, in almost all cases before the U. S. courts, school programs of random testing certain student populations have been held to be constitutional under the U.S. Constitution and certain State Constitutions.

In fact, in reviewing over 40 student drug-testing cases, it was determined that in the majority of these cases, the school program was upheld when the school followed well-established guidelines and principles of drug testing in general. Schools have had the benefit of many years of trial and error in workplace drug-testing programs and the same standards are recommended for schools.

U. S. Courts, through case rulings, have also helped to establish generally accepted practices and standards of student drug-testing programs and should be reviewed when considering establishing a program.

Brief summaries of noteworthy cases are presented here. All student drug-testing case rulings and summaries may be found at www.studentdrugtesting.org on the SDT Legal Actions page, along with a listing of program components that U.S. Courts have viewed as necessary to a program.

LANDMARK U. S. SUPREME COURT CASES

1) *1995, U. S. Supreme Court: Vernonia School District v. Acton.*

This case involved an Oregon high school that discovered its student athletes were leaders in the student drug culture. The school also had concern that drug use increases the risk of sports-related injury. The school district adopted the Student Athlete Drug Policy, which authorized random urinalysis drug testing of students who participate in its athletics programs. Respondent Acton was denied participation in his school's football program when he and his parents (also respondents) refused to consent to the testing. They then filed suit on the grounds that the policy violated the Fourth and Fourteenth Amendments and the Oregon Constitution. The Court upheld random testing of high school athletes as constitutional.

This 1995 U. S. Supreme Court ruling opened the door to random drug testing programs for student athletes.

2) *2002, U. S. Supreme Court: Board of Education Independent School District #92 of Pottawatomie v. Earls, et al.*

This case involved the Student Activities Drug Testing Policy adopted by the Tecumseh, Oklahoma, School District requiring all middle and high school students to consent to urinalysis testing for drugs in order to participate in any extracurricular activity. Respondent high school students and their parents brought this action alleging that the Policy violates the Fourth Amendment. The Court upheld random testing of high school students participating in extra-curricular activities as constitutional.

This 2002 U. S. Supreme Court ruling expanded random drug testing programs to include not only student athletes, but all students participating in extra-curricular activities.

FEDERAL CIRCUIT COURT CASES OF SIGNIFICANCE

[Note: In the U. S., the Federal Court system has layers just as in State Court systems. The U. S. Federal Circuit Courts of Appeal have jurisdiction for the states included within that circuit area and is the Court just below the U. S. Supreme Court. In the U. S. there are 11 Circuits plus the D.C. Circuit.]

1) 2000, *United States Court of Appeals, Seventh Circuit: Joy v. Penn-Harris-Madison School Corp.*

The School Board created a Drug-Testing Investigation Committee, composed of students, parents and school personnel, to study drug testing as a method of reducing student substance abuse. The Drug Testing Investigation Committee recommended that suspicion-less student drug testing be part of Penn's drug-prevention program. That recommendation eventually became part of Policy 360, entitled Student Testing for Drugs, Alcohol and Tobacco, which was approved by the School Board on May 26, 1998, and implemented during the 1998-99 school year.

This case is notable due to the fact that while the Seventh Circuit Court of Appeals issued an opinion finding the school district policy constitutional under the Fourth Amendment, the Court required to school to amend its policy as it applied to the testing of student drivers for nicotine. In response, Penn amended its policy to read: "A student driver will not be subject to consequences for a positive test for tobacco."

2) 1998, *U. S. Seventh Federal Circuit Court of Appeals: Todd, et al. v. Rush County Schools*

In August 1996, the Rush County School Board approved a program prohibiting a high school student from participating in any extracurricular activities or driving to and from school unless the student and parent or guardian consented to a test for drugs, alcohol or tobacco in random, unannounced urinalysis examinations.

This suit was filed by four parents for their four children, all students at Rushville Consolidated High School in Rushville, Indiana. Plaintiff William Todd's parents refused to sign a consent form for the drug testing program, resulting in his being barred from videotaping the football team. Likewise, the parents of the three plaintiff Hammons children refused to sign the consent form and the children were therefore barred from participating in any extracurricular activities.

The school random testing program was upheld as consistent with the Fourth and Fourteenth Amendments.

This case is notable due to the fact that students driving to and from school were included in the random drug-testing program.

STATE COURT CASES OF SIGNIFICANCE

2002, Court of Appeals of the State of Oregon (Oregon State Supreme Court denied Certiorari, upholding the Court of Appeals ruling) Weber v. Oakridge School District 76

Oakridge School District 76 adopted a drug-testing policy requiring all students who wish to participate in extracurricular school athletics to consent to random urinalysis testing throughout the school year and to disclose any use of prescription medications. Ginelle Weber, a student at Oakridge High School, tried out for and made the school's volleyball team. But she and her parents refused to consent to the random urinalysis and disclosure requirements. The school excluded her from the team. Her parents, John and Shannon Weber, initiated action arguing that the district's policy violates Ginelle's right to be free from unreasonable searches and seizures guaranteed by Article I, section 9, of the Oregon Constitution.

The trial court concluded that the district's policy violates Ginelle's rights under Article I, section 9, only to the extent that it required her to disclose her use of any prescription medication before having tested positive for alcohol or drug use; the court upheld the constitutionality of the policy in all other respects.

The district then revised its policy, eliminating the compelled disclosure of prescription medication use. The court upheld the constitutionality of the policy as revised.

This case is notable for the fact that the school initially required disclosure of medications, which does not conform to generally accepted standards and principles for any drug-testing program.

APPENDIX A

Current Data

2003 National Survey on Drug Use and Health (United States)²¹

(All data applies to the 12-17 years of age group unless otherwise stated)

- # 3.8 percent of youths aged 12 or 13 reported current illicit drug use in 2003.
- # Among youths aged 14 to 15, 10.9 percent were current illicit drug users (used in past 30 days). 19.2 percent of youths aged 16 to 17 and 23.3 percent of youths aged 18 to 20 were current illicit drug users.
- # The percentage of youths who had ever used marijuana declined slightly from 2002 to 2003 (20.6% to 19.6%).
- # The percentage of youths who had ever used cocaine decreased slightly from 2002 to 2003 but still remained higher than the 2001 level of 2.3 percent (2.7% to 2.6 %).
- # The percentages of youths reporting that it was fairly or very easy to obtain specific drugs were 53.6 percent for marijuana, 26.2 percent for crack, 25.0 percent for cocaine, 17.6 percent for LSD, and 15.3 percent for heroin.
- # 81.3 percent of those obtaining a drug for free, obtained it from a friend.
- # Youth who self-reported one or more delinquent behaviors during the previous year had higher rates of current drug use than those reporting no delinquent behaviors.
- # The percentage of those who had ever used heroin was unchanged from 2002.
- # The use of hallucinogens decreased slightly in 2003 (to 5.0% from 5.7% in 2002).
- # Use of inhalants increased slightly in 2003 to 10.7 percent (10.5% in 2002).
- # The use of methamphetamines (crank, crystal, ice, speed) decreased slightly in 2003 to 1.3 percent (1.5% in 2002).

²¹ 2003 National Survey on Drug Use and Health (NSDUH), an annual survey of the civilian, noninstitutionalized population of the United States aged 12 years old or older. Prior to 2002, the survey was called the National Household Survey on Drug Abuse (NHSDA).

CASA 2004²²

- # 50 percent of high school students will return to schools where drugs are used, kept or sold, as will 24 percent of middle school students. For middle school students this is a deterioration from 2003, when only 21 percent of middle school students said they attended schools where drugs are used, kept or sold.
- # At schools where drugs are used, kept, or sold 46% of students have witnessed drug use and 43% of students have witnessed illegal drug sales - all on school grounds - as compared to no students at drug-free schools witnessing use or sales.
- # More than five million of those aged 12 to 17-years (21 percent) can buy marijuana in an hour or less. Another ten million (40% - up from 19% in 2003) can buy marijuana within a day.
- # Most teens who use alcohol, cigarettes and marijuana do so before they are 14. Among teens who have tried alcohol, tobacco or marijuana, the average age of first use is a little more than 12 for alcohol, 11 for cigarettes, and 13 years for marijuana.
- # There continues to be an increase in the proportion of middle schools (grades six through eight) where drugs are used, kept or sold (19% in 2002, 21% in 2003, 24% in 2004).
- # There are indications that schools which conduct random testing are likelier to be drug free (59 percent) than those that test only athletes, only for cause (when there is reason to suspect that a student is using drugs) or under other circumstances (46 percent).²³
- # 67 percent of teens and 60 percent of parents say drug tests are effective in keeping teens from using illegal drugs.²⁴

Monitoring the Future²⁵ 2003

- # In 2003, 13 percent, 28 percent, and 35 percent of the eighth-, 10th-, and 12th-graders indicated having smoked marijuana in the prior 12 months.
- # 8th grade use remained at 2002 levels. This could indicate increases in drug use may occur as this group ages.

²²National Center on Addiction and Substance Abuse at Columbia University, August 2004: National Survey of American Attitudes on Substance Abuse IX, Teen Dating Practices and Sexual Activity. www.casacolumbia.org

²³National Center on Addiction and Substance Abuse at Columbia University, August 2003: National Survey of American Attitudes on Substance Abuse VIII, Teens and Parents.

²⁴Ibid.

²⁵Monitoring the Future. December 2003. University of Michigan www.monitoringthefuture.org

University of Michigan, Institute for Social Research (ISR), 2004²⁶

This study followed men and women who graduated from high school between 1977 and 1983. The participants were randomly selected after graduation to participate in follow-up surveys conducted every two years. *Results correlate to other studies finding that if drugs are not used during the school years, there is a significant decrease in drug use as an adult.*

- # When compared with those who did not drink heavily as high-school seniors, participants who drank heavily had 3 times the odds of drinking heavily at 35 years of age.
- # When compared with those who had not tried marijuana by the twelfth grade, individuals who had tried marijuana by the twelfth grade had 8 times the odds of using marijuana at age 35.
- # Those who had tried any illicit drug other than marijuana by their senior year had 5 times the odds of using cocaine and 3 times the odds of misusing prescription drugs at 35 years of age compared with those who had not.

PRIDE Survey 2003²⁷

- # Use of marijuana, cocaine, heroin, any other illicit drug by students in junior high school increased over 2002 with the increases being statistically significant.
- # Use of marijuana, cocaine, heroin, any other illicit drug by students in high school increased over 2002 with the increases being statistically significant.

Youth Risk Behavior Surveillance, United States, 2003²⁸

- # 28.7% of students had been offered, sold, or given an illegal drug on school property during the 12 months preceding the survey.
- # 5.8% of students had used marijuana on school property one or more times during the 30 days preceding the survey.
- # 40.2% of students had used marijuana one or more times during their lifetime

²⁶American Journal of Public Health, January 2004. The study uses data on 7,541 respondents from the Monitoring the Future study funded by the National Institute on Drug Abuse and conducted annually at the University of Michigan Institute for Social Research (ISR).

²⁷PRIDE Surveys, Chapter 2, National Summary Statistics. www.pridesurveys.com

²⁸Centers for Disease Control and Prevention. Surveillance Summaries May 21, 2004 / Vol. 53 / No. SS-2. Report covers data collected February - December 2003. <http://www.cdc.gov/HealthyYouth/yrbs/>

- # The prevalence of lifetime marijuana use was higher among 10th grade (40.4%), 11th grade (44.5%), and 12th grade (48.5%) than 9th grade (30.7%) students.
- # 22.4% of students had used marijuana one or more times during the 30 days preceding the survey.
- # The prevalence of current marijuana use was higher among 11th grade (24.1%) and 12th grade (25.8%) than 9th grade (18.5%) students.
- # One tenth (9.9%) of students nationwide had tried marijuana for the first time before age 13 years.
- # 8.7% of students had used a form of cocaine (e.g., powder, crack or freebase) one or more times during their lifetime.
- # 4.1% of students had used a form of cocaine one or more times during the 30 days preceding the survey
- # 3.2% of students had used a needle to inject any illegal drug into their body one or more times during their lifetime.
- # 11.1% of students had used ecstasy one or more times during their lifetime.
- # 7.6% of students had used methamphetamines one or more times during their lifetime.

Treatment Episode Data Set (TEDS), 2002²⁹

- # Nationally there were 30,467 admissions to treatment for substance abuse for children under 15 years of age. The majority were admitted for use of marijuana.
- # 128,930 of treatment admissions were for those aged 15 to 17 years. The majority were admitted for use of marijuana.
- # 76,272 of treatment admissions were for those aged 18 to 19 years. The majority were admitted for use of marijuana.

²⁹Office of Applied Studies, Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set, 2002.

A sampling of news stories heard every day to demonstrate the impact of drug use on many lives.

San Mateo County, California: At an 8th-grader slumber party held April 23, 2004, a 14-year old girl died from taking ecstasy. The death has resulted in the arrests of two 14-year-old girls, a 17-year-old boy accused of providing the ecstasy pills and several adults.³⁰

Leominster, Massachusetts: Sky View middle-school student arrested for possessing marijuana. The incident is not the first middle school-level drug charge this year in Massachusetts. Principal Richard Smith said a 14-year-old girl at Southeast Middle School was found with marijuana earlier this year. Administrators have heard rumors about students using illegal substances, but had not seen any cases of it.³¹

³⁰San Mateo Daily Journal, May 24, 2004. By Dana Yates.

³¹Leominster Sentinel Saturday, May 22, 2004 By Lisa Guerriero

The Student Drug-Testing Coalition

©2004

**Manual sponsored and printed by
The Arizona H.I.D.T.A.
Demand-Reduction Office**

