

STUDENT RANDOM DRUG TESTING POLICY FOR STUDENT DRIVERS AND “OPT-IN PARTICIPANTS”

Tyler County Schools, in an effort to protect the health and safety of its student drivers from illegal and/or performance-enhancing drug use and abuse, thereby setting an example for all other students, proposes to adopt the following policy for drug testing for student drivers and opt-in participants.

Statement of Purpose and Intent

Although the administration and staff desire that every student in Tyler County Schools refrain from using or possessing illegal drugs, school officials realize that their power to restrict the possession or use of illegal and performance-enhancing drugs is limited. Therefore, this policy governs only performance-enhancing and illegal drug use by student drivers, those who are “opt-in participants”, and those whose parent or guardian elects to include the student in the random student drug testing selection process. The sanctions imposed for violations of this policy, could include, but are not limited to, limiting the opportunity of any student determined to be in violation of this policy to a student's privilege of driving to school. This policy supplements and complements all other policies, rules, and regulations of Tyler County Schools regarding possession or use of illegal drugs.

Being a student driver is a privilege. Students who drive to school have a responsibility for the safe operation of a vehicle in the school setting.

The purposes of this policy are five (5) fold:

- A. to educate students on the serious physical, mental, and emotional harm caused by illegal drug use;
- B. to alert students with possible substance abuse problems, and their parent/guardian, of the potential harms that drug use poses for their physical, mental, and emotional well-being and offer them the privilege of full participation as an incentive to stop using such substances;
- C. to ensure that students adhere to a training program that bars the intake of illegal and performance-enhancing drugs;
- D. to prevent injury, illness, and harm to students that may arise as a result of using illegal and performance-enhancing drugs;
- E. to offer students a safe environment free of the effects of illegal and performance-enhancing drug use.

Illegal and performance-enhancing drug use of any kind is not compatible with the physical, mental, and emotional demands placed upon student drivers, and/or those who voluntarily choose to participate, the county has adopted this policy for use by all student drivers, and/or those who voluntarily choose to participate in the drug testing.

The administration shall adopt necessary regulations to implement this policy.

Definitions

- A. "Student Driver" means a student attending Tyler County Schools who drives to school.
- B. "Drug use test" means a scientifically substantiated method to test for the presence of illegal or performance-enhancing drugs or the metabolites thereof in a person's urine sample or a person's saliva sample (also referred to as “specimen” or “mouth swab”).
- C. "Illegal drugs" means any substance which an individual may not sell, possess, use, distribute, or purchase under either Federal or West Virginia law. "Illegal drugs" includes, but is not limited to, all scheduled drugs as defined by the West Virginia Uniform Controlled Substances Act, all prescription drugs obtained without authorization, and all prescribed and over-the-counter drugs being used for an abusive purpose. "Illegal drugs" shall also include alcohol.
- D. "Opt-in participant" means any student, less than eighteen (18) years of age whose parent or guardian elects to include the student in the random selection for drug testing. A student may become an opt-in participant at any time during the school year. Students 18 years of age and over not included in Definitions A and C are considered

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emancipated and can opt-in at their discretion with the understanding they could be treated as an adult if their violation(s) of the policy merit such consideration.

E. "Participating student" means all student drivers as well as any opt-in participants. All participating students will be subject to random testing during the regular school year. In addition to the random testing, drug screening will also be required of any student involved in a worktime accident that requires a report to be filed with the West Virginia Board of Risk and Insurance Management (BRIM). The immediate use of oral swab drug testing after a worktime accident allows Tyler County Schools to determine whether a student is intoxicated at the time of testing. Any student determined to be intoxicated at the time of testing will be removed from all safety sensitive areas in their respective shop/classroom, and will be sent home immediately. An appropriate person on the student’s emergency card will be contacted to provide transportation home. The testing pool is to be maintained by programmatic level and consequences remain in effect for the programmatic level, meaning that consequences are carried over year to year for the time the students are in the high school grades or unless they are removed from the testing pool.

F. "Performance-enhancing drugs" include anabolic steroids and any other natural or synthetic substance used to increase muscle mass, strength, endurance, speed, or other athletic ability. The term "performance-enhancing drugs" does not include dietary or nutritional supplements such as vitamins, minerals, and proteins which can be lawfully purchased over-the-counter.

G. "Positive" when referring to a drug use test administered under this policy means a toxicological test result which is considered to demonstrate the presence of an illegal or a performance-enhancing drug or the metabolites thereof using the standards customarily established by the testing service administering the drug use test.

H. "Random selection basis" means a mechanism for selecting participating students for drug testing that:

1. results in an equal probability that any participating student from the total pool of activity students including (student drivers) and opt-in participants subject to the selection mechanism will be selected; and
2. does not give Tyler Consolidated discretion to waive the selection of any participating student selected under the random selection mechanism.

I. "Reasonable articulable suspicion" means a suspicion of illegal or performance-enhancing drug use based on specific observations made by administrators/instructors of the appearance, speech, or behavior of a participating student; the reasonable inferences that are drawn from those observations; and/or information of illegal or performance-enhancing drug use by a participating student supplied to school officials by other staff members.

J. Split specimen means, in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee request that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

K. Split specimen collection means a collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (bottle a) and the split specimen (bottle b).

L. Saliva test means, in drug testing, the utilization of a saliva sample for detection of illegal drugs and their metabolites. An absorbent collection device is placed in the mouth and the saliva collected is screened for drugs use.

M. Mouth swab, in drug testing, is the utilization of a swab which is placed in the person’s mouth for less than five minutes collects the saliva for testing. Once saturated, the testing device takes a few minutes to produce a pass or fail result.

Implementation Guidelines

A. Consent Forms

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At the beginning of each school year each activity student including (student drivers), and opt-in participants shall be provided with a copy of the "Student Drug Testing Consent Form" which shall be read, signed, and dated by the student, parent, or custodial guardian and such student shall be eligible to drive to school. Once the random drug testing policy is fully implemented student drivers must submit a fully completed "Student Drug Testing Consent Form" to principal to receive a parking permit. The opt-in participant and parent or custodial guardian shall also consent to read and sign a consent form. This consent requires the student drivers, and opt-in participant to provide a urine (split sample) or saliva sample as follows:

1. when the student driver, or opt-in participant is selected by the random selection basis to provide a urine (split sample) or saliva sample; and
2. at any time when there is articulable suspicion to test for illegal or performance-enhancing drugs. Any student demonstrating reasonably suspicious behavior that could indicate intoxication (i.e. slurred speech, unusual motor skill problems)

No student shall be allowed to drive to school unless the student has returned the properly signed "Student Drug Testing Consent Form." Any student or parent/guardian who refuses to sign a “Student Drug Testing Form” will disqualify the student from driving to school.

B. Orientation Session

Prior to the commencement of drug testing each year, an orientation session shall be held with each student driver and opt-in participant to educate them of the sample/saliva collection process, privacy arrangements, drug testing procedures, and other information which may help to reassure the students and help avoid embarrassment or uncomfortable feelings about the drug testing process. Tyler County Schools administration will review policies and procedures annually with the selected drug testing company.

C. Distribution of this Policy

Each student drivers, opt-in participant, and parent/guardian shall receive a copy of the Student Drug Testing Policy. The principal shall be responsible for explaining the policy to all prospective students, and for delivering an educational presentation to acquaint the student with the harmful consequences of drug and alcohol use and abuse.

D. Random Sample

Drug use testing for participating students shall be conducted on a random selection basis at randomly selected times from a list of all participating student driver and opt-in participants. Tyler County Schools shall select a minimum of forty percent (40%) of all participating students' names to be drawn at random to provide urine (split sample) or saliva test for drug use testing for illegal drugs or performance-enhancing drugs. Testing shall be done no more than six times per school year on a random basis and as long as funding is available.

E. Reasonable Suspicion Sample

In addition to the drug tests required above, any student driver or opt-in participant may be required at any time to submit to a test for illegal or performance-enhancing drugs, or the metabolites thereof when an administrator or instructor has reasonable articulable suspicion of illegal or performance-enhancing drug use by that particular student. Any student who is involved in an accident that requires a report to be filed with the WV Board of Risk & Insurance Management (BRIM) will be required to submit to a drug screen.

F. Drug Testing Service

Any drug use test shall be administered by or at the direction of a drug testing service chosen by the county. The drug testing service shall be required to use scientifically validated toxicological testing methods, have detailed written specifications to assure chain of custody of the specimens, and proper drug testing service control and scientific testing.

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G. Privacy

All aspects of the drug use testing program, including the taking of specimens and mouth swabs, shall be conducted so as to safeguard the personal and privacy rights of the student to the maximum degree possible.

H. Obtaining Samples

The test specimen or mouth swab shall be obtained in a manner designed to minimize intrusiveness of the procedure. In particular, the specimen or mouth swab shall be collected in a facility behind a closed door. The drug testing service shall provide a certified/trained employee to collect the samples subject to drug testing or train a member of Tyler County Schools nursing staff to collect the samples only if an employee from the drug testing service is not present to collect the samples. This individual will also monitor the collection of samples or swabs.

1. Tampering

If at any time during the testing procedure the certified, trained employee has reason to believe or suspect that a student is tampering with the specimen or swab, the monitor may stop the procedure and inform the Principal or designee who will then determine if a new sample should be obtained.

2. List of Medications Taken

In the event of a positive test result, Tyler Consolidated administration or certified/trained employee of the employed testing service of the drug testing service shall contact the parent/guardian of the student and be provided with an opportunity to provide documentation of medications legally prescribed for the student. Based on the documentation provided by the parent, the certified/trained employee of the employed testing service will determine the status of the test result. The communication between the parent/guardian and the certified/trained employee of the employed testing service regarding medications prescribed to the student will be strictly confidential and not shared with school personnel.

NOTE: School personnel may be aware of medication prescribed to students due to information provided on school emergency cards or the administration of medication process.

I. Positive Tests

In the event of a positive test result, the parent/guardian may challenge the positive test result. The procedure would consist of a second test of the same specimen/swab and would be conducted at the parent/guardian's expense. All records shall be confidential. All records will be maintained in accordance with accepted professional standards. This exclusion to related records shall not pertain to law enforcement in the discharge of their legal duties.

Confidentiality

A. Notification by Drug Testing Service

The drug testing service shall notify the Principal or designee of any positive test.

B. Notification to Student, Principal, and the Student’s Parent/Guardian

In order to keep the positive test results confidential, the Principal or designee shall provide written notification only to:

1. For Activity/Simulated Workplace Students

the student, the home county superintendent, the home school principal, the home school counselor, instructor, and the parent or custodial guardian of the student.

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2. For the Opt-in Participants

the student and the parent or custodial guardian of the student.

The principal or designee shall schedule a conference with the student and parent or guardian and explain the student's opportunity to submit additional information to the principal or designee or to the lab. The District will rely on the opinion of the drug testing service which performed the test in determining whether the positive test result was produced by something other than consumption of an illegal or performance-enhancing drug.

C. Record of Test Results

Test results shall be kept in the files separate from the student's other educational records, shall be disclosed only to those school personnel who have a need to know, and shall not be turned over to any law enforcement authorities unless the law enforcement authority presents a valid court subpoena, search warrant, or signed consent from the parent, guardian, or student. Records of positive test results maintained at the school shall be destroyed upon the student's graduation from high school. School personnel reviewing these files shall sign official documentation that they have done so. Records of test results, appeals, and substance abuse program attendance shall be destroyed upon graduation. Payment for treatment shall be the responsibility of the parent/guardian.

Appeal

Procedure for Appeal

A participating student who has been determined by the certified/trained employee of the employed testing service to be in violation of this policy shall have the right to appeal the decision to the Principal or his/her designee(s). Such a request for a review must be submitted to the Principal in writing within five (5) working days of notice of the positive test. A student requesting a review shall remain eligible to participate in the Simulated Workplace until the review is completed. The Principal or his/her designee(s) shall then determine whether the original finding was justified. No further review of the Principal's decision shall be provided and his/her decision shall be conclusive in all respects. Any necessary interpretation or application of this policy shall be in the sole and exclusive judgment and discretion of the Principal which shall be final and non-appealable.

Consequences

A. Restrictions for Student Drivers

Any activity student who tests positive in a drug test under this policy shall be subject to the following restrictions, which shall be cumulative throughout each programmatic level:

1. First Offense

After the parent/guardian has been notified of a positive result by the certified/trained employee of the employed testing service, the student may drive home from school that day but not after, a meeting shall then be set up with the student, parent/guardian, and principal / assistant principal concerning the positive drug test. The student and parent/guardian must, within five (5) school days of the joint meeting, show written proof that the student has been referred for substance abuse counseling / services through certified agencies. Proof must be provided that the student is receiving counseling. The cost associated with the counseling will be provided by the parent/guardians.

Additionally, the student must voluntarily submit to a second drug test to be administered within two (2) weeks in accordance with the testing provisions of this policy. The parent/guardian shall be responsible for the cost of this drug test.

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2. Second Offense

Loss of driving permit until the student has completed the change company program for one full semester or other drug and alcohol education course followed by a negative drug test. The parent/guardian shall be responsible for the cost of this drug test.

B. A violation of this policy is NOT a violation of the Student Code of Conduct Policy. Any participating student who tests positive in a drug test under this policy shall, as a result thereof, be subject only to the restrictions described under this section labeled Consequences; notwithstanding any provision of the Student Code of Conduct Policy. When Tyler County employees charged with the administration of this drug testing policy are made aware of drug use by a student driver or opt-in participant, solely as a result of drug testing under this policy, that student driver or opt-in participant shall NOT be disciplined under the Student Code of Conduct Policy or of their drug use so discovered.

Refusal to Submit to Drug Use Test

A participating student who refuses to submit to a drug test authorized under this policy shall be subject to the same consequences as a positive test result. The student will not be eligible to drive to school. The Principal or his / her designee will determine the Offense level consequence pertaining to the student’s refusal.

Important Note on Consequences

Notwithstanding, any student who violates the *Student Code of Conduct Policy* and West Virginia law by the illegal use of medications or drugs of any kind while on school grounds, or is under the influence of medications or illegal drugs on school grounds, the student is subject to disciplinary action as outlined in the *Student Code of Conduct Policy*, up to and including expulsion.

Postscript

The Tyler County Board of Education and all of its employees are committed to cooperating with parents/guardians in an effort to help students avoid illegal drug use. The district believes accountability is a powerful tool to help some students avoid using drugs and that early detection and intervention can save lives.

REFERENCE:

EFFECTIVE: 1/7/19