

The Effectiveness and Legality of Random Drug Testing Policies

By

Joseph R. McKinney, J.D., Ed.D.

Chair and Professor

Department of Educational Leadership, Ball State University
Adjunct Professor of Law, Indiana University/Indianapolis School of Law
2002

Reported by

THE STUDENT DRUG-TESTING COALITION

A PROJECT OF THE

DRUG-FREE PROJECTS COALITION, INC.

PROGRAMS AND STRATEGIES TO PREVENT AND REDUCE DRUG USE



STUDENT DRUG-TESTING COALITION

Helping students pursue a better future.

Introduction

Despite some recent progress in combating adolescent drug and alcohol use among students, research indicates that drug and alcohol use remains a chronic problem among the nation's teenagers. American schools are involved in a number of education and prevention programs aimed at reducing drug and alcohol use. Random drug testing of students in public schools is one drug prevention/deterrence program that schools have employed across the country.

The purpose of this study was to examine the effectiveness of a mandatory, random, suspicion-less drug testing policy. The study also examines the constitutionally-based case law that is the backdrop to random drug testing policies.

Legal background

Random drug testing policies have been the subject of numerous lawsuits being brought by parents and students. Courts have recognized that drug use by school students is a compelling national concern and that deterring such use is a matter of substantial importance. Courts have acknowledged that student drug and alcohol use affects not only the user, but also all members of the student body and faculty, as well as disrupting the educational process. The U.S. Supreme Court ruled that testing of student athletes is constitutional. (*Veronia School District 47J v. Acton*, 515 U.S.646 (1995)).

Recently in a 5–4 decision, the U.S. Supreme Court held that a mandatory random drug testing program for all students participating in extracurricular activities was a reasonably effective means of meeting the school district's legitimate concerns regarding detecting, determining and preventing illegal drug use by students. (*Board of Education of Independent School District No. 92 of Pottawatomie County, Oklahoma v. Earls*, 122 S.Ct. 2559 (2002)).

The 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)). Drug testing policies were challenged by the Indiana Civil Liberties Union. Following the Linke decision, all Indiana schools suspended random drug testing programs while awaiting a decision by the Indiana Supreme Court. The Indiana Supreme Court reversed the appellate court in the summer of 2002 and school districts in Indiana reinstated the programs.

Methodology

A list of high schools with random drug-testing policies was created. Ninety-four high schools were identified as possibly implementing random drug testing policies. Principals at these high schools were surveyed about the student drug-testing programs.

Eighty-three (83) high school principals responded to the survey. Twelve principals indicated that they did not have a drug testing policy before the Indiana Appellate Court decision and 71 high schools responding did have a policy. Principals were asked to compare drug and alcohol activity during the 1999–2000 school year when drug testing policies were in effect to drug and alcohol activity in the 2000–2001 school year when district random drug testing policies were suspended.

Ninety-seven percent (97%) of the drug testing programs included student athletes.

Results

85% of the high school principals reported an increase in either drug or alcohol use among their students *after* the drug testing program was stopped, as compared to the 1999–2000 school year when random drug testing programs were active.

80% reported an increase in illicit drug usage during the 2000–01 school year compared to the previous year when the testing programs were active.

59% reported an increase in alcohol usage during the 2000–01 school year compared to the previous year when the testing programs were active.

Principals reported that 352 students were either suspended or expelled for drug or alcohol related incidents during the 1999–2000 school year when testing programs were active and that during the 2000–01 year, when drug-testing programs had been suspended, drug or alcohol related suspensions and expulsions increased to 518.¹

55% of principals surveyed reported that coaches indicated to them that they had received information that student athletes were involved in more incidents of drinking during the 2000–01 year without the drug-testing program.

57% reported the same levels of drugs use by student athletes.

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.

There was no statistically significant difference in the increase in drug and alcohol usage based on the size or location of the high school. In other words, all high schools, regardless of size or location, were impacted by the increase in drug and/or alcohol use by students.

There was a moderate correlation between the largest percentage increases in drug and alcohol related expulsions/suspensions and large rural schools.

Reported basis for responses:

83% reported their answers concerning the increase in drug and alcohol usage were based on information received directly from students.

79% said their answers were based on information from teachers and staff.

59% said information came from law enforcement.

¹A t-test was performed and the results indicate that there was a statistically significant increase from last year to this year ($t=2.9, df58, p<, 01$).

23% said information came from formal surveys of students at the school.

78% of the principals reported that there was an increase 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.

Importance of the Study

Random drug testing policies appear to provide a strong tool for schools to use in reducing alcohol and drug use among teens. There are legal, financial, educational, and privacy issues that must be considered by schools wanting to implement or continue random drug testing policies. While the legal debate over drug testing in schools will continue, this study does show that random drug testing policies are effective in reducing the temptation to use drugs and alcohol.

References

- Vernonia School District 47J v. Action, 515, U.S. 646 (1995).
Todd v. Rush Co. School 133 F3d 984 (7th cir.), cert. Denied, 524 U.S. 824 (1998).
Trinidad Sch. Dist. 1 v. Lopez, 963 P2d 1095 (Colo., 1998).
Linke v. Northwestern Sch. Corp., 734 N.E. 2d 252 (Ind. Ct. App. 2000).
Board of Education of Independent School District No. 92 of Pottawatomie Court of Oklahoma v. Earls, 22 S.Ct. 2559 (2002).
1999 National Household Survey, <http://www.samhsa.gov/>.