

Policy ~~5530.01~~ 431 – Student Activity Drug Testing

Proposed revision effective upon passage

1st reading July 11, 2019

2nd reading

3rd reading

Statutory authority West Virginia Board of Education Policy 2520.13

Administrative Guidelines

(none)

The Board of Education, in an effort to protect the health and safety of its Career and Technical Education Simulated Workplace activities students from illegal and drug use and abuse, thereby setting an example for all other students of the County Schools, proposes to adopts the following policy for drug testing of activity students.

STATEMENT OF PURPOSE AND INTENT

Although the Board of Education, administration, and staff desire that every student in the county refrain from using or possessing illegal drugs, county officials realize that their power to restrict the possession or use of illegal drugs is limited. Therefore, this policy governs only illegal drug use by students participating in Career and Technical Education Simulated Workplace activities. The sanctions imposed for violations of this policy will be limitations solely upon limiting the opportunity of any student determined to be in violation of this policy to a student's privilege to participate in Career and Technical Education Simulated Workplace activities. No suspensions from school or academic sanctions will be imposed for violations of this policy. This policy supplements and complements all other policies, rules, and regulations of the county regarding possession or use of illegal drugs.

The purposes of this policy are five-fold to:

- A. educate students of the serious physical, mental and emotional harm caused by illegal drug use.
- B. alert students with possible substance abuse problems to the potential harms that drug use poses for their physical, mental, and emotional well-being and offer them the privilege of competition as an incentive to stop using such substances.
- C. Ensure that students adhere to a training program that bars the intake of illegal drugs.
- D. prevent injury, illness, and harm for students that may arise as a result from illegal drug use.
- E. offer students practices, competition and school activities free of the effects of illegal drug use.

Illegal drug use of any kind is incompatible with the physical, mental, and emotional demands placed upon participants in Career and Technical Education Simulated Workplace activities and upon the positive image these students project to other students and to the community on behalf of the county. For the safety, health and well being of students in Career and Technical Education Simulated Workplace activities the county has adopted this policy for use by all participants in Career and Technical Education Simulated Workplace activities.

The administration may adopt regulations to implement this policy.

A. Definitions

"Activity Student" means a member of any middle school or high school county sponsored Career and Technical Education Simulated Workplace organization which participates in interscholastic competition. This includes any student that represents County Schools in any Career and Technical Education Simulated Workplace.

"Drug use test" means a scientifically substantiated method to test for the presence of illegal drugs or the metabolites thereof in a person's urine.

"Random Selection Basis" means a mechanism for selecting activity students for drug testing that:

1. results in an equal probability that any activity student from a group of activity students subject to the selection mechanism will be selected, and
2. does not give the county discretion to waive the selection of any activity student selected under the mechanism.

"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 Substance 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.

"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 drug or the metabolites thereof using the standards customarily established by the testing laboratory administering the drug use test.

"Reasonable suspicion" means a suspicion of illegal drug use based on specific observations made by administrators/sponsors of the appearance, speech, or behavior of an activity student; the reasonable inferences that are drawn from those observations; and/or information of illegal use by an activity student supplied to school officials by other students, staff members, or patrons.

B. Procedures

Each activity student 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 sponsor before such student shall be eligible to practice or participate in any Career and Technical Education Simulated Workplace activities. The consent requires the activity student to provide a urine sample: (a) as part of the student's annual physical or for eligibility for participation; (b) when the activity student is selected by the random selection basis to provide a urine sample; and (c) at any time when there is reasonable suspicion to test for illegal drugs. No student shall be allowed to practice or participate in any Career and Technical Education Simulated Workplace activities unless the student has returned the properly signed "Student Drug Testing Consent Form."

Prior to the commencement of drug testing each year an orientation session will be held with each Activity Student to educate them of the sample collection process, privacy arrangements, drug testing procedures and other areas which may help to reassure the activity student and help avoid embarrassment or uncomfortable feelings about the drug testing process.

Each Activity Student shall receive a copy of the Activity Student Drug Testing Policy. The sponsor shall be responsible for explaining the policy to all prospective students, and for preparing an educational presentation to acquaint the student with the harmful consequences of drug and alcohol use and abuse.

All Activity Students will be required to provide a urine sample before the student may participate in an Career and Technical Education Simulated Workplace activity covered under this policy. A student who moves into the county after the school year begins will have to undergo a drug test before they will be eligible for participation.

Drug use testing for Activity Students will also be chosen on a random selection basis monthly from a list of all Activity Students who are involved in off-season or in-season activities. The county will determine a monthly number of student names to be drawn at random to provide a urine sample for drug use testing for illegal drugs.

In addition to the drug tests required above, any Activity Student may be required at any time to submit to a test for illegal drugs, or the metabolites thereof when an administrator or sponsor has reasonable suspicion of illegal drug use by that particular student.

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

All aspects of the drug use testing program, including the taking of specimens, will be conducted so as to safeguard the personal and privacy rights of the student to the maximum degree possible. The test specimen shall be obtained in a manner designed to minimize intrusiveness of the procedure. In particular, the specimen must be collected in a restroom or other private facility behind a closed stall. The principal shall designate a sponsor, or school employee of the same sex as the student to accompany the student to a restroom or other private facility behind a closed stall. The monitor shall not observe the student while the specimen is being produced, but the monitor shall be present outside the stall to listen for the normal sounds of urination in order to guard against tampered specimens and to insure an accurate chain of custody. The monitor shall verify the normal warmth and appearance of the specimen. If at any time during the testing procedure the monitor has reason to believe or suspect that a student is tampering with the specimen, the monitor may stop the procedure and inform the principal who will then determine if a new sample should be obtained. The monitor shall give each student a form on which the student may list any medications legally prescribed for the student he or she has taken in the preceding thirty (30) days. The parent or legal guardian shall be able to confirm the medication list submitted by their child during the twenty-four (24) hours following any drug test. The medication list shall be submitted to the lab in a sealed and confidential envelope and shall not be viewed by county employees.

An initial positive test result will be subject to confirmation by a second and different test of the same specimen. The second test will use the gas chromatography/mass spectrometry technique. A specimen shall not be reported positive unless the second test utilizing the gas chromatography/mass spectrometry procedure is positive for the presence of an illegal drug or the metabolites thereof. The unused portion of a specimen that tested positive shall be preserved by the laboratory for a period of six (6) months or the end of the school year, whichever is shorter. Student records will be retained until the end of the school year.

C. Confidentiality

The laboratory will notify the principal or designee of any positive test. To keep the positive test results confidential, the principal or designee will only notify the student, the sponsor, and the parent or custodial guardian of the student of the results. The principal or designee will schedule a conference with the student and parent or guardian and explain the student's opportunity to submit additional information to the principal or to the lab. The County Schools will rely on the opinion of the laboratory which performed the test in determining whether the positive test result was produced by something other than consumption of an illegal drug.

Test results will be kept in files separate from the student's other educational records, shall be disclosed only to those school personnel who have a need to know, and will not be turned over to any law enforcement authorities.

D. Appeal

An Activity Student who has been determined by the principal to be in violation of this policy shall have the right to appeal the decision to the Superintendent or his/her designee(s). Such request for a review must be submitted to the Superintendent in writing within five (5) calendar days of notice of the positive test. A student requesting a review will remain eligible to participate in any Career and Technical Education Simulated Workplace activities until the review is completed. The Superintendent or his/her designee(s) shall then determine whether the original finding was justified. No further review of the Superintendent's decision will 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 Superintendent which shall be final and non-appealable.

E. Consequences

Any Activity Student who tests positive in a drug test under this policy shall be subject to the following restrictions:

1. For the First Offense:

The parent/guardian will be contacted immediately and a private conference will be scheduled to present the test results to the parent/guardian. A meeting will then be set up with the student, parent/guardian, and principal concerning the positive drug test. In order to continue participation in the activity the student and parent/guardian must, within five (5) days of the joint meeting, show proof that the student has received drug counseling from a qualified drug treatment program or counseling entity. 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.

If parent/guardian and student agree to these provisions, the student will continue to participate in the activity. Should the parent/student not agree to these provisions the consequences listed in this policy for the second offense will be imposed.

2. For the Second Offense:

Suspension from participation in all activities covered under this policy for (14) calendar days, and successful completion of four (4) hours of substance abuse education/counseling provided by the school. The student may not participate in any meetings, practices, scrimmages or competitions during this period. The student will be randomly tested monthly for the remainder of the school year. The time and date will be unknown to the student and determined by the principal or designee.

These restrictions and requirements shall begin immediately, consecutive in nature, unless a review appeal is filed following receipt of a positive test. Provided, however, a student who on his or her own volition informs (self-refers) the principal or sponsor of usage before being notified to submit to a drug use test will be allowed to remain active in all activities covered under this policy. Such student will however, be considered to have committed his/her first offense under the policy and will be required to re-test as would a student who has tested positive.

3. For the Third Offense (in the same school year):

Complete suspension from participation in all Career and Technical Education Simulated Workplace activities including all meetings, practices, performances, and competition for the remainder of the school year, or ninety school days (1 semester) whichever is the longer.

F. Refusal to Submit to Drug Use Test

A participating student who refuses to submit to a drug test authorized under this policy, shall not be eligible to participate in any activities covered under this policy for the remainder of the school year.

The County Schools is committed to cooperating with parents/guardians in an effort to help students avoid illegal drug use. The county believes accountability is a powerful tool to help some students avoid using drugs and that early detection and intervention can save lives.