The majority of student drug-testing cases reviewed, analyzed and summarized for this page, were upheld by the courts when the testing programs encompassed students participating in athletics, extra-curricular activities, or students with parking passes. A key reason that most school districts prevailed, was that those programs followed generally accepted standards and practices in drug testing and made some showing of drug use by students.

Of note, were key policy/program elements present in most of the programs. These key elements or components should be considered when creating and implementing a student drug-testing policy. A listing, provided below, has been derived from analyzing over 40 student drug-testing court cases and rulings and may be useful. This listing should not be construed as, nor does it constitute legal advice. Whenever creating or modifying a student drug-testing policy, it is in the best interests of the school district to obtain qualified legal advice.

The key components of successful programs:

1. A safety rationale for the illicit drug and alcohol testing program and concern over student welfare with the goal of reducing drug use by students.

2. All programs for students in activities and parking on school property were non-punitive, resulting only in suspension from the activity. There were no academic consequences.

3. A measure of student drug use in the district (most schools conducted surveys prior to program implementation and/or documented anecdotal information from faculty, students).

4. No requirement to report medications taken to anyone other than the testing laboratory or the Medical Review Officer (MRO) in confidence.

5. Parental consent forms.

6. Minimal intrusion during the collection process, affording maximum privacy possible (NO observed collections).

7. Progressive consequences if more than one positive drug test result for a student.

8. Test result actions do not include law enforcement involvement.

9. Use of well-established test collection procedures, including chain of custody documentation for the specimen.

10. A confirmatory testing process.

11. Establishment of specific and strict confidentiality procedures such as keeping drug-testing records separate from other records.

12. Information on drug test results restricted to a "need to know" basis.

13. Use of a medical review officer in the testing process.

14. Options/referrals for treatment; many districts had SAP services.

15. Destruction of the drug testing records upon graduation or departure from the district.

Bean v. Tulia Independent School District

U.S. District Court for Northern Texas. August 22, 2003

Summary judgment opinion: School random testing policy upheld

[Note: information from media sources. This is the second court challenge to Tulia's SDT policy. The school district has prevailed in both cases]

Case History Summary: Tulia ISD has a policy of random drug testing for students participating in athletics and other extra-curricular activities for grades 7-12.

Amos Bean, a student within the Tulia ISD, claimed that the drug-testing policy violated his rights under the U.S. and Texas constitutions. Under the U.S. District Court ruling, Bean is now required to pay the school's taxable court costs. Alan Bean, father of Amos, is currently undecided on appealing the ruling.

Board of Education Independent School District #92 of Pottawatomie v. Earls, et al. U. S. Supreme Court *(536 U.S. 822 [2002])* No.01-332. Argued March 19, 2002. Decided June 27,2002

School random testing program of students in extra-curricular activities upheld

Case history summary: The Student Activities Drug Testing Policy (Policy) adopted by the Tecumseh, Oklahoma, School District (School District) requires all middle and high school students to consent to urinalysis testing for drugs in order to participate in any extracurricular activity. In practice, the Policy has been applied only to competitive extracurricular activities sanctioned by the Oklahoma Secondary Schools Activities Association (OSSAA). Respondent high school students and their parents brought this action for equitable relief, alleging that the Policy violates the Fourth Amendment. Applying *Vernonia School Dist.47J* v.*Acton,*515 U.S.646, in which this Court upheld the suspicion-less drug testing of school athletes, the District Court granted the School District summary judgment. The Tenth Circuit reversed, holding that the Policy violated the Fourth Amendment. It concluded that before imposing a suspicion-less drug testing program a school must demonstrate some identifiable drug abuse problem among a sufficient number of those tested, such that testing that group will actually redress its drug problem. The court then held that the School District had failed to demonstrate such a problem among Tecumseh students participating in competitive extracurricular activities. The Tecumseh SD appealed to the U. S. Supreme Court and the Tenth Circuit decision (242 F.3d 1264) was reversed.

Board of Education ISD #92 of Pottawatomie v. Earls, et al. U.S. Supreme Court ruling. June 2002

Lindsay Earls, et al. v. Board of Education of Tecumseh Public School District, ISD #92 of Pottawatomie County, 10th Federal Circuit ruling March 2001

Analysis of Supreme Court Ruling (as it relates to school policy)

Brooks v East Chambers Consol. Independent School District

U. S. District Court for the Southern District of Texas 730 F Supp 759. Decided August 23, 1989

School random testing program ruled unconstitutional

U.S. Federal Court of Appeals for the Fifth Circuit 930 F2d 915. Decided: 1991

Affirmed without opinion

The school policy required all students in extracurricular activities to submit to a drug test at the beginning of the term and on a random basis during the school year. Students who refused the test or tested positive were excluded from extracurricular activities.

Gardner v. Tulia Independent School District

U. S. District Court of North Texas No. 2:97-CV-20. Decided: November 8, 2002

School district random testing program upheld

Fifth Federal Circuit Court of Appeals (on appeal by Gardner) Decided: July 31, 2003. Dismissed

Fifth Federal Circuit Court of Appeals (on appeal by Tulia ISD) Decided: September 6, 2002

Remanded to District Court for reconsideration in light of June 2002 Supreme Court ruling in Board of Education Independent School District #92 of Pottawatomie v. Earls, et al.

U. S. District Court of North Texas 183 F.Supp.2d 854 (N.D. Tex 2000) Decided November 30, 2000

School random testing program held in violation of the Fourth Amendment noting that School officials failed to demonstrate that widespread drug problems would be addressed by the policy.

Case History Summary: Hollister Gardner (Hollister) is a former student of a school in the Tulia Independent School District (TISD). While Hollister was attending TISD schools, he participated in extra curricular activity. In the fall of 1996, TISD's board of trustees approved the development of a suspicionless, random student drug testing program for students involved in school-sponsored extra-curricular activities. The drug-testing program was implemented in January 1997.

The Tulia ISD policy applied to all 7-12 grade students in any extracurricular activity. The school provided no evidence of a drug problem to establish a "special need".

Joy v. Penn-Harris-Madison School Corp.
United States District Court for the Northern District of Indiana, 1999. Cause No. 71D079810CP1368.
Summary judgment for the school District on constitutionality of the policy, 2002.

United States Court of Appeals, Seventh Circuit, Case No. 99-2261. 212 F.3d 1052 (7th Cir. 2000)
Argued Nov. 12, 1999, Decided May 12, 2000.

Found School District's policy constitutional under the Fourth Amendment except as it applied to the testing of student drivers for nicotine. The school modified its policy to eliminate any consequences for a positive nicotine test.

Case history summary: As part of a statewide program, in 1993, 1995, and 1997, all sixth, eighth, tenth, and twelfth graders in Penn schools were surveyed regarding drug use. The results showed that students at Penn were "much more likely" than the national average to use "gateway drugs," defined as alcohol and tobacco, and had a "higher than average use" of "most other types of drugs."

Confronted with the 1993 and 1995 survey results, the Penn School Board (School Board) formed a Substance Abuse Awareness Committee to develop a plan for reducing student use of alcohol, tobacco, and other drugs. After receiving the Awareness Committee's report, 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.

On October 28, 1998, Joy and Steven Ward, Elizabeth's father, filed a Motion for Preliminary Injunction and Declaratory Judgment in the St. Joseph Superior Court, alleging that Penn's suspicion-less drug testing policy violates both the United States and the Indiana Constitutions. Penn removed the case to federal district court, and moved to dismiss due to several procedural defects. With the court's permission, Linda Petill, her daughter, Tiffany, and, later, Candace Petill were added as plaintiffs. The federal district court severed the state constitutional claims and remanded that part of the case to the St. Joseph Superior Court.

On July 15, 1999, Penn moved for summary judgment, and the Students responded with a cross-motion for summary judgment. Meanwhile, on May 12, 2000, the Seventh Circuit Court of Appeals issued an opinion finding the school district policy constitutional under the Fourth Amendment, except as it applied to the testing of student drivers for nicotine. in this case. In response, Penn amended its policy to read: "A student driver will not be subject to consequences for a positive test for tobacco."

Joy v. Penn-Harris-Madison School Corp., Seventh Federal Circuit ruling, 2000

Penn-Harris-Madison School Corporation v. Joy, et al., Indiana Court of Appeals, May 2002

Joye v. Hunterdon Central Regional Board of Education et al.

New Jersey Supreme Court (A-27-2002) 176 N.J. 568, 826 A.2d 624. Argued February 19, 2003; Decided July 9, 2003

School random testing program upheld

Superior Court of New Jersey, Appellate Division. 353 N.J. Super. 600 (2002) Argued January 23, 2002; Decided August 12, 2002

School random testing program upheld

Trial Court: Ruled against the school testing program

Case History Summary: Hunterdon Central Regional High School is located in Flemington and provides secondary education to approximately 2,500 students enrolled in grades nine through twelve. Lisa Brady, the school's principal, indicated in a certification that despite these efforts, in 1997 the administrators continued to have concerns about illegal drug and alcohol use by students. Coaches, teachers, and administrators reported anecdotally their concern about what they perceived to be a growing problem. Reports from the suspicion-based program appeared to corroborate the reports. During the 1996-97 school year, the school tested thirty students for illegal drug use, twenty seven (or ninety percent) of whom tested positive.

The Board of Education retained the services of Rocky Mountain Behavioral Science Institute, Inc. (RMBSI) to conduct several surveys regarding the nature and extent of illegal drug and alcohol use by Hunterdon Central students. Responding to results of the first survey and to feedback from the school staff, the Board implemented its first random drug and alcohol testing program in July 1997. Between 1998 and 2000, over 1,000 student athletes per school year became eligible for testing. Of that number, the school randomly tested approximately 100 student athletes a year. Less than five percent of those tested positive for drug or alcohol use.

Shortly after the initial program took effect, the Board held a public meeting where the Board established a task force to evaluate the then-current drug testing procedure and to present recommendations for any needed revisions. The task force heard from students and coaches who supported the program because it was working. The clear perception was that drug use among athletes had declined significantly because of the possibility of being tested. Students explained that it had eased peer pressure by giving student athletes a reason not to participate in use of alcohol and drugs. The task force solicited public input and held a public meeting. It also obtained law enforcement data from the municipalities that send students to Hunterdon Central. The task fore issued its final report in November 1998. Task force members voted to expand the random drug and alcohol testing program to include students who held parking permits or who engaged in non-athletic extracurricular activities.

The Board accepted the task force recommendations in December 1999. Fully implemented as of September 2000, the expanded policy authorizes the school Administration to conduct random drug testing of all students engaged in extracurricular activities and all students authorized to park on school premises.

Challenging the constitutionality of the program on behalf of themselves and their respective children, three sets of parents filed suit in August 2000.

Joye v. Hunterdon Central Regional Board of Education, et al. New Jersey Supreme Court ruling 176 N.J. 568, 826 A.2d 624 July 2003

Joye v. Hunterdon Central Regional Board of Education, et al. New Jersey Superior Court Appellate Division. 353 N.J. Super. 600 (2002)

Linke v. Northwestern School Corporation

Indiana Supreme Court 763 N.E.2d 972 (Ind. 2002) Decided March 5, 2002. (Transfer granted Mar. 5, 2001)

School random testing program upheld as constitutional

Indiana Appeals Court 734 N.E.2d 252 (Ind. Ct. App. 2000)Decided August 21, 2000. Reversed Trial Court ruling. Petition for Rehearing October 6, 2000 Reaffirm opinion of August 21, 2000.

Northwestern School Corporation appeals to Indiana Supreme Court

Howard Circuit Court: Trial Court granted summary judgment in favor of Northwestern School Corporation

Case history summary: Northwestern School Corporation (NSC) is a public school system covering rural and suburban areas of Howard County near Kokomo. It operates two elementary schools, one middle school, and one high school.

In the mid-1990s, drug usage in middle and high schools became a concern to the administrators at NSC. In the spring of 1995, the Indiana Prevention and Resource Center released a survey regarding drug, alcohol, and tobacco usage by students in grades seven through ten at NSC schools. The survey showed higher than average use of gateway drugs among some students. Specifically, it found that NSC's eighth graders used amphetamines at a rate higher than state prevalence rates; ninth graders used drugs, alcohol, and cigarettes at higher than the state prevalence rates; and tenth graders reported a higher daily use of alcohol than state prevalence rates.

Drug abuse continued to be a problem at NSC high and middle schools. During the 1998-99 school year, there were two suspensions and two expulsions in the high school and five suspensions and five expulsions in the middle school because of student drug usage. Beginning in 1987, three Northwestern High School students (including a recent graduate) died in drug related incidents. The most recent death, in 1996, occurred after a student overdosed on morphine pills acquired from a fellow student while at school. These contraband pills passed through a chain of student hands before finding their final resting place.

In response, a task force consisting of administrators, teachers, staff, and interested parents was formed to examine NSC's approach to drugs. The task force addressed three primary areas: anti-drug curriculum; incorporation of special anti-drug programs; and development of a student drug testing policy. The task force created the Northwestern School Corporation Extra-Curricular Activities and Student Driver Drug Testing Policy ("Policy") effective January 12, 1999. The Policy is explicitly not punitive. Under the Policy, testing positive for banned substances does not result in academic penalty, results of drug test are not documented in any student's academic records, and information regarding the results is not disclosed to criminal or juvenile authorities absent binding legal compulsion. The Policy applies to all middle and high school students, grades 7-12, participating in school athletics, specified extra-curricular and co-curricular activities, as well as to all student drivers who wish to park their vehicles on campus.

Rosa and Reena Linke ("the Linkes") were both students at Northwestern High School, a part of NSC, when this lawsuit was filed. At the time of the suit, Rosa was a junior who participated in track, National Honor Society, Students Against Drunk Driving, the Prom Committee, and Academic Competition. She also had a driver's license and wanted to drive to school. Reena was a freshman participating in choir, track, Academic Competition, Sunshine Society, and Fellowship of Christian Athletes. Their claim was that the Policy violated the Search and Seizure Clause, art. I, § 11, and the Privileges and Immunities Clause, art. I, § 23, of the Indiana Constitution.

Linke v. Northwestern School Corporation, Indiana Supreme Court 763 N.E.2d 972 (Ind. 2002)

Linke v. Northwestern School Corporation, Indiana Appeals Court 734 N.E.2d 252 (Ind. Ct. App. 2000) August 21, 2000

Linke v. Northwestern School Corporation, Indiana Appeals Court 734 N.E.2d 252 (Ind. Ct. App. 2000) October 6, 2000, Petition for rehearing

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Miller v. Wilkes (Cave City School Board of Education) U. S. District Court for Eastern Arkansas No. 98-3227

School random testing program upheld

U.S. Federal Court of Appeals for the Eighth Circuit 172 F.3d 574 (1999) Submitted: February 12, 1999; Decided March 31, 1999

Affirmed summary judgment granted by the District Court to Cave City School BOE, upholding drug-testing program for athletes and students in extra-curricular activities but the ruling was vacated as moot [172 F.3d 582 (1999)] June 15, 1999 as student had graduated.

Case History Summary: Beginning with the 1997-98 school year, the School District instituted a "Chemical Screen Test Policy for Cave City Schools," which provides for random testing of urine samples from students in grades seven through twelve.

Pathe Miller has averred that he wishes to participate, and would participate, in such school activities as the Radio Club, prom committees, the quiz bowl, and school dances, among others. Pathe and Troy Miller, however, refuse to consent to Pathe's participation in the random testing program and therefore Pathe is not permitted to engage in any extracurricular activities. Pathe, by Troy Miller, sought declaratory and injunctive relief, alleging that the random testing required by the drug and alcohol screening policy violates Pathe's constitutional rights under the Fourth and Fourteenth Amendments.

Miller v. Wilkes (Cave City School Board of Education) 172 F.3d 574 (1999)

Odenheim v Carlstadt-East Rutherford School District New Jersey Superior Court 510 A.2d 709. 1985

Ruled against the school district policy of testing ALL students

Case History Summary: One of the first cases involving student drug testing.

The Carlstadt-East Rutherford School District Board implemented a policy requiring all secondary school students to submit to a urinalysis test. Characterizing the urinalysis test as a "search," the judge in the case applied the United States Supreme Court's T.L.O (1985) standard and invalidated the testing requirement. In his view, reasonable suspicion of drug use did not exist warranting an infringement on the privacy interests of the students. What is more, he said, the testing results could lead to a student's exclusion from school without being given procedural due process.

Schaill v. Tippecanoe County School Corporation U.S. Federal Court of Appeals for the Seventh Circuit 864 F.2d 1309

1988 [note: this was the first student drug-testing case heard by the Seventh Circuit and was prior to the Vernonia decision. The Court relied strongly on New Jersey v. T.L.O. for guidance]

School policy of random testing for athletes upheld

Case History Summary: Based upon nationwide drug abuse problems among high school students and possible drug use by athletes at one of its schools, Tippecanoe County School Corporation implemented a random urine testing program for all interscholastic athletes and cheerleaders in its school system. If a student tested positive, the school informed the student's parents and allowed the student to clear his or her name by offering an innocent explanation for the positive result. If, however, the student failed to explain the test result, the school suspended the student from participating in the athletic activity for part of the season.

Schaill filed a complaint stating the district's policy was a violation of her Fourth Amendment and Fourteenth Amendment due process rights and sought declaratory and injunctive relief from the drug testing program, asserting that the program was both offensive and intrusive.

Tannahill v. Lockney Independent School District Northern District Court of Texas (133 F.Supp.2d 919, Northern District, Texas)

Decided March 1, 2001

School random testing of ALL students not upheld

Case history summary: After a survey given to the District's teachers showed a strong desire to implement a mandatory drug testing program for students, the Board of Education initially voted on November 2, 1999, to implement a mandatory drug testing plan for **all** students in the District in grades 6 through 12. A final copy of the policy was approved on December 16, 1999, with implementation scheduled for the first week in

February 2000. In mid-January of 2000, the parental consent forms were distributed to students. With the exception of the Plaintiffs, all parents consented to have their children submit to the drug test; testing of students **and staff** occurred February 2-4, 2000. Plaintiffs objected and refused to consent to the drug testing policy and properly followed the administrative appeals requirements of the District. Their appeals were denied. Plaintiffs then filed suit for injunctive and declaratory relief. In granting summary judgment, the court for the Northern District of Texas considered standards as established in prior student drug testing cases. It did not find that there was a special needs basis, or that there was evidence that drug or alcohol abuse by [the district's] students constituted a major problem in the operation of the schools; it considered a policy of testing all students intrusive, therefore not meeting the "reasonableness" standard; it also found that the facts of the case militate against a finding that the District's interest is compelling.

Tannahill v. Lockney Independent School District, U.S. District Court, Northern District of Texas, Lubbock Division 2001

Theodore v. Delaware Valley School District Pennsylvania Supreme Court No. 85 MAP 2001; No. 86 MAP 2001

Decided November 20, 2003

Decision of the Commonwealth Court is affirmed (complaint reinstated on constitutionality and needs of the school random testing program, case permitted to go forward; parental rights claim dismissal upheld.)

School random testing of athletes, students with driving/parking privileges & activities to be decided in the trial court, allowing the school district the opportunity to provide evidence of need for a random testing program. Despite what others and the media have portrayed, this case is currently undecided.

Case history summary: In 1998, the Delaware Valley School District (the "School District" or "District") adopted a policy which authorizes random, suspicion-less drug and alcohol testing of students who hold school parking permits or participate in voluntary extracurricular activities (including athletics). Appellees Louis and Mary Ellen Theodore, whose two daughters were subject to the policy, filed a complaint seeking to enjoin the testing policy on grounds that, inter alia, it violated their daughters' rights to privacy under Article I, Section 8 of the Pennsylvania Constitution.

Pennsylvania Trial Court

On July 21, 1999, the trial court granted the School District's preliminary objections and dismissed the Theodore's complaint. The trial court also rejected their claim that the District was required to establish a special need to test this targeted group of students. Finally, the court rejected the Theodore's parental rights claim. They appealed to the Commonwealth Court.

Pennsylvania Commonwealth Court (Appellate) 761 A.2d 652, 661 (Pa. Cmwlth. 2000) (en banc).

Affirmed the dismissal of the Theodore's parental rights claims, but vacated and remanded on the claim brought on behalf of the students, reinstating the complaint as to the claim that the Delaware Valley SD drug testing policy is unconstitutional. Delaware Valley SD appealed to Pennsylvania Supreme Court. PA Supreme Court held decision on the case until November 2003, in part, pending outcome of the Board of Education ISD #92 of Pottawatomie v. Earls, et al. *(536 U.S. 822 [2002])* case before the U. S. Supreme Court.

Theodore v. Delaware Valley School District; PA Supreme Court.

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.

School random testing program upheld as consistent with the Fourth and Fourteenth Amendments.

Cert. Denied, 525 U.S. 8248 (1998) Petition for Rehearing En Banc by plaintiffs denied 139 F.3d 571. Submitted January 29, 1998, Decided March 19, 1998

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis

Trial Court granted summary judgment for Rush County Schools, plaintiffs appealed.

Case History Summary: This suit was filed by four parents and as next friends for their four children, all students at Rushville Consolidated High School in Rushville, Indiana. 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. 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.

A 1994 survey of Rush County high school students was conducted by the Indiana Prevention Resource Center and disclosed that cigarette use for Rush County 10th graders was higher than the Indiana average and that alcohol use for 11th and 12th graders was also higher than the state average. Marijuana usage was lower for 9th and 12th graders than the state average. Two witnesses stated that drug use has been increasing at the high school, causing the drowning of a senior and an automobile crash where the students were inhaling the contents of aerosol cans.

The issue before the Court was whether Rush County Schools' drug testing program under which all students who wish to participate in extracurricular activities must consent to random and suspicionless urine testing for alcohol, unlawful drug, and cigarette usage violates the Fourth Amendment rights of those students.

Todd, et al. v. Rush County Schools, US 7th Fed. Circuit Court of Appeals 133 F.3d 984

Todd, et al. v. Rush County Schools, US 7th Fed. Circuit Court of Appeals Petition for Rehearing 525 U.S. 8248

Trinidad School District No. 1 v. Lopez

Colorado Supreme Court 963 P2d 1095 (Case No. 97 SC 124) Decided: June 29, 1998

En Banc judgment reversed and case remanded. Held the Policy is unconstitutional with respect to the marching band. [See bottom of page for definition of ‘en banc’]

[note: membership in the band was linked to enrollment in a for-credit, graded music class which removed the drug testing program from the realm of being ‘voluntary’ in the sense that a student may choose to participate in a school-sponsored activity which does not impact academic standing]

Appealed by Lopez and both parties to the case sought expedited certiorari review by the Colorado Supreme Court which was granted.

Trial Court: Issued TRO for Lopez’ reinstatement to band class and marching band pending trial

Order issued: December 19, 1996

Decision: Held that the Policy was not unconstitutionally vague and that the Policy did not violate either the Fourth Amendment to the United States Constitution or article II, section 7, of the Colorado Constitution.

Case History Summary: A drug testing policy, entitled "Drug Testing Student Athletes/ Cheerleaders/Extra Curricular," was created by the Trinidad School District No. 1 Board of Education (Board) in July 1996. The policy mandated suspicion-less urinalysis drug testing of all sixth through twelfth grade students participating in extracurricular activities. At the beginning of the 1996-1997 school year, the Trinidad School District No. 1 (School District) began regular testing of all students who wanted to take part in extracurricular activities. Carlos Lopez, a senior high school student who was enrolled in two for-credit band classes and participated in the school's marching band, refused to consent to the mandatory drug testing. Consequently, the District superintendent suspended Lopez from the band classes and the marching band.

Lopez, by and through his parents, filed a complaint for permanent injunctive and declaratory relief on September 6, 1996 in the Las Animas County District Court (trial court). Lopez alleged among other things that the Policy violated his right to be free from unreasonable searches and seizures, as guaranteed by the

Fourth Amendment to the United States Constitution.

Additionally, Lopez alleged that the Policy violated article II, section 7, of the Colorado Constitution. Lopez requested that the trial court enjoin the implementation of the Policy and that he be reinstated to the band classes and marching band.

Trinidad School District No. 1 v. Lopez Colorado Supreme Court 963 P2d 1095 June 1998

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.

Court of Appeals of the State of Oregon

Argued and submitted March 18, 2002.

Decided: October 23, 2002

School random testing of athletes upheld after policy of medication disclosure modified

Case history summary: 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 for declaratory judgment and damages, 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. It also dismissed the claim for damages. Plaintiffs appeal, arguing that the trial court erred in concluding that the requirement that student athletes submit to random urinalysis does not violate Ginelle's state constitutional rights and in dismissed their claim for damages. The school district cross-appealed, arguing that the trial court erred in concluding that the portion of the policy requiring disclosure of prescription medication use is unconstitutional.

On the appeal, the Court concluded that plaintiffs failed to demonstrate the unconstitutionality of the district's policy, as revised. On the cross-appeal, the Court conclude that the trial court was correct in holding that the required disclosure of all prescription medication use is unconstitutional

Weber v. Oakridge School District 76, Oregon Court of Appeals 2002, OR Supreme Court Cert. denied 2003

Vernonia School District 47J Petitioner v. Wayne Acton et ux., etc. (1995) U. S. Supreme Court

Argued March 28, 1995; Decided June 26, 1995 by the U. S. Supreme Court.

School random testing program of athletes upheld

Case history summary: In 1989, motivated by the discovery that athletes were leaders in the student drug culture and concern that drug use increases the risk of sports-related injury, petitioner school district adopted the Student Athlete Drug Policy, which authorizes 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, seeking declaratory and injunctive relief on the grounds that the policy violated the Fourth and Fourteenth Amendments and the Oregon Constitution. The District Court denied the claims, but the Court of Appeals (Certiorari to the United States Court of Appeals for the Ninth Circuit No. 94-590.) reversed, holding that the

Policy violated both the Federal and State Constitutions. The U. S. Supreme Court held the Policy is constitutional under the Fourth and Fourteenth Amendments of the U. S. Constitution and remanded the case back to the 9th Fed. Circuit Court of Appeals to decide the issue of any violation to the Oregon Constitution.

On September 15, 1995, the 9th Fed. Circuit Court of Appeals determined that, pursuant to the United States Supreme Court's decision in Vernonia School District v. Acton - 115 S. Ct. 2386, 132 L. Ed. 2d 564 (1995), and because the Court was of the opinion that the Oregon Supreme Court would not offer greater protection under the provisions of the Oregon Constitution in this case, it affirmed the judgment of the district court that had upheld the Vernonia school district policy of random testing of athletes.

Vernonia v Acton, U.S. Supreme Court 1995

Acton v. Vernonia School District 47J, U.S. 9th Fed. Circuit Court 1995

York v. Wahkiakum School District #200 Court of Appeals State of Washington 110 Wash. App. 383, 40 P.3d 1198

Slip Opinion, February 22, 2002

School random testing of athletes upheld

Case history summary: Court of Appeals accepted discretionary review of lower court's denial of preliminary injunction to halt the drug testing program pending trial. The school district argued that review of the trial court's denial of a preliminary injunction is moot because the District has agreed to stop testing students pending the trial. Court of Appeals agreed and dismissed the petition as moot. Also ruled that suspicion-less searches are not unreasonable per se, and the students have not shown that the school district's policy invades a clear legal or equitable right.

York v. Wahkiakum School District #200, Washington State Court of Appeals 2002

RELATED PRECEDENT CASES

New Jersey v T.L.O.

U. S. Supreme Court 469 U.S. 325. Argued March 28, 1984; Reargued October 2, 1984; Decided January 15, 1985

Ruled in favor of the school district reasonable suspicion search

In 1985, the United States Supreme Court handed down its landmark public school search and seizure decision. The ruling sought to balance student Fourth Amendment protections (including a legitimate expectation of privacy) with the substantial interest of public school officials and teachers to conduct searches of students and their belongings.

The Court held that school authorities can conduct personal searches of a student and a student's belongings (for example, purses, pockets, and book bags) on the basis of a reasonable suspicion that the student is concealing something detrimental to the school.

T.L.O. was a student suspected of smoking in the restroom in violation of school policy, and the assistant principal searched the student's purse for cigarettes. During the search, the administrator found a pack of cigarettes, as well as drug paraphernalia, a small amount of marijuana, and evidence suggesting that the student was selling drugs. The state subsequently brought delinquency charges against the student, who asserted that the items discovered could not be used against her because the search violated her Fourth Amendment rights. Rejecting the student's claim, the Court ruled that the search satisfied the "reasonable suspicion" standard. Under this standard, school authorities must have reasonable grounds to suspect that a search will uncover evidence that a student has violated the law or school rules. The scope of the search must not be overly intrusive in light of the student's characteristics (for example, age) and the contraband being sought.

The Supreme Court established, for the first time, that public school officials are government representatives for Fourth Amendment purposes. Searches or seizures of students and their belongings must comply with the Fourth Amendment. The Court also applied the Camara "reasonableness" standard for non-criminal searches and seizures, establishing a "special needs doctrine." To constitute a legal search, the search must be justified from the beginning by a reasonable suspicion. The search must also be conducted in a reasonable manner in line with the objectives of the search without being excessively intrusive.

New Jersey v. T.L.O. U.S. Supreme Court ruling 469 U.S. 325 January 1985

Willis v. Anderson Community School Corporation

U.S. Federal Court of Appeals for the Seventh Circuit (Case #98-1227) 158 F.3d 415

Argued April 9, 1998; Decided September 9, 1998

Ruled against school policy provision requiring return-to-school drug testing by reversing decision of lower court

Appeal to U. S. Supreme Court. Cert. Denied 119 S.Ct. 1259 (1999)

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division. No. IP 97-2038--John D. Tinder, Judge.

Willis' motion for a preliminary injunction denied and school policy of drug testing on a return-to-school following suspension basis upheld.

Case History Summary: In December 1997, high school freshman James Willis was suspended for fighting with a fellow student. Upon Willis' return to school and pursuant to the policy of the Anderson Community School Corporation (Corporation), he was informed that he would be tested for drug and alcohol use. When Willis refused to provide a urine sample, he was suspended again and advised that if he refused to submit to the test upon his return, he would be deemed to have admitted unlawful drug use and would be suspended a third time pending expulsion proceedings. Willis filed suit and claimed, in relevant part, that the Corporation's policy violates the Fourth and Fourteenth Amendments of the United States Constitution.

The Anderson Board of Education adopted a policy of student drug testing that included a provision requiring any student expelled for more than three days to provide a negative drug test result before returning to school. The court found that, unlike random testing of students who voluntarily participate in athletic/extra-curricular activities programs, the return-to-school type of testing affords a greater expectation of privacy and therefore applied a more basic Fourth Amendment analysis. The Court also found that the generalized policy requiring drug testing of any student returning to school from suspension was unrelated to illegal drug use.

Willis v. Anderson Community School Corporation 7th Circuit Court of Appeals 158 F.3d 415 September 1998

EN BANC - Fr. "by the full court" "in the bench" or "full bench." When all the members of an appellate court hear an argument, they are sitting en banc. Refers to court sessions with the entire membership of a court participating rather than the usual quorum. U.S. courts of appeals usually sit in panels of three judges, but may expand to a larger number in certain cases. They are then said to be sitting en banc.