

TENNESSEE STATE BOARD OF EDUCATION	
MODEL DRUG TESTING POLICY	4.201

Tenn. Code Ann. § 49-6-4213 provides that:

1. A student may be subject to testing for the presence of drugs in the body if there are reasonable indications to the principal that such student may have used or be under the influence of drugs.
2. The need for such testing may be brought to the attention of the principal through a search of lockers, a search of the student, observed or reported use of drugs by the student on school property or other reasonable information received from a teacher, staff member or other student. all of the following standards of reasonableness must be met:
 - a. A particular student has violated the school policy;
 - b. The test will yield evidence of the violation of school policy or will establish that a student either was impaired due to drug use or did not use drugs;
 - c. The test is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of the students;
 - d. The test is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and,
 - f. Persons who shall act as witnesses shall be designated in the policy of the local board of education.
3. Malicious use of authority granted by the provisions of the act may be grounds for dismissal of the person so acting.
4. The law specifies that drugs shall mean any drug as defined by Tenn. Code Ann. §§ 39-6-405 through 416, as well as alcohol.
5. Tests shall be conducted by properly trained persons in circumstances that insure the integrity, validity and accuracy of the test results but are minimally intrusive to and provide maximum privacy to the tested student
6. The testing of specimens shall be performed by an accredited laboratory as defined in Tenn. Code Ann. § 68-29-101.

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7. Specimens shall be retained for at least ten days for possible retesting or reanalysis.
8. Test reports from laboratories shall include a specimen number assigned by the local education agency, the drug testing laboratory accession number and the test results. Certified copies of the test results shall be available upon written request to the laboratory. Such requests shall be made by the Local Education Agency or the parent of the student tested.
9. All specimens testing negative on the initial screening test or negative on the confirmatory test shall be reported as negative.
10. When a student is tested and the results of the test are negative, all records of the test, the request for the test, and indications that a student was identified for testing and was tested shall be expunged, including any Local Education Agency or school record which may identify the student.
11. Students shall be notified in writing at the time of enrollment that they may be subjected to testing. Notice to each student shall state the grounds for the testing, the procedures to be followed and the penalties which may follow as a result of a positive test.
12. Students shall be advised of their right to refuse to undergo drug testing and the consequences of such refusal.
13. A parent of the student, or a person legally responsible for the student, shall be notified before any drug test is administered.
14. The Local Education Agency shall pay the cost of testing.
15. Local Education Agencies which initiate programs of drug testing shall provide inservice to principals and teachers on the signs and symptoms of student drug use and abuse as well as the school policies and procedures for handling specific incidents of suspected drug use.
16. The Department of Mental Health and Mental Retardation shall provide qualified trainers to conduct inservice training.

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17. The principal or guidance counselor of the school in which the student who tests positive is enrolled shall provide referral information to such student and to the student's parent or guardian. The information shall include information on inpatient, outpatient and community-based drug and alcohol treatment programs.

18. Subject to the availability of funds, the Department of Mental Health and Mental Retardation shall cause a student assistance program to be provided in Local Education Agencies which authorize drug testing of students. The program shall consist of a qualified student assistance program coordinator who may serve one or more schools where drug testing is allowed. The coordinator shall conduct assessment counseling with any student who tests positive for the presence of drugs or alcohol. Such counseling shall include a determination of the severity of the student's alcohol and drug problem and recommendations for referral to intervention or treatment resources when appropriate.

Relationship of the Model Drug Testing Policy to Other Alcohol and Drug Policies

In order to provide the proper context for the Model Drug Testing Policy, excerpts from the Alcohol & Drug Policies: A Model for Schools can provide clarification. This is a publication of the Departments of Education and Mental Health/Mental Retardation.

Prior to implementing drug testing procedures in a school district a thorough review of the existing alcohol and drug policies should be undertaken. The policy should be consistent with the above referenced policy.

According to that policy, a school district's alcohol and drug policy must address two major concerns:

1. The maintenance of an environment in which students can learn; and,

2. Help for students whose development is threatened by the abuse of alcohol or other drugs.

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If drug testing is to be implemented, then the testing procedure must be a component of a comprehensive policy which addresses:

1. The prevention of alcohol and other drug abuse;
2. The identification of students who are at a high risk for alcohol and drug involvement;
3. The provision of an opportunity for assessment and treatment of youth who need help; and,
4. The protection of the learning environment for the majority of students.

Model Drug Testing Policy

Notification

Students shall be notified in writing at the time of enrollment of the drug and alcohol policy of the school system and that they are subject to drug testing. This can be accomplished by one of several methods, e.g., student handbooks, notices given to students at registration, or letters mailed to the homes of the enrolled students. The language should be simple and concise.

Model

Policy: The alcohol and drug policy for XYZ school system is . . .

Students enrolling in the schools in XYZ school system are subject to testing for drugs and alcohol pursuant to local board policy passed on (date). Statutory Authority TCA 49-6-4213.

Identification and Detection

The policy should include, and the students should be informed of the reasons for initiating an individual test.

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Policy: The principals in XYZ school system are authorized to order drug tests for individual students. The reasons for ordering a test may include:

- 1. A reasonable indication that the school's policy on alcohol and drug use has been violated;*
- 2. The smell of alcohol or marijuana smoke about the student;*
- 3. Evidence found as a result of a search of lockers;
Statutory Authority TCA 49-6-4204.*
- 4. Evidence found as a result of a search of persons or containers;
Statutory Authority TCA 49-6-4205.*
- 5. Evidence found as a result of a search of vehicles;
Statutory Authority TCA 49-6-4206*
- 6. Observed or reported use of drugs by the student on school property; and,*
- 7. Other reasonable information received from a teacher, staff member or other student.*

Confrontation and Reporting

The student shall be informed of the pending test, the reasons supporting the ordering of the test and that the ordering of the test is not arbitrary or a result of random selection. At the time of confrontation, the student shall be notified of the opportunity to refuse to be tested and of the consequences of such refusal. The parent or legal guardian of the student shall also be notified at this time of the pending test. All confrontation of the student and notification of parents/guardians should be in a manner of utmost discretion so as to protect the privacy rights of the student. Written records of conversations should be kept and the LEA's designated witness should be present.

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Policy: Upon reasonable information received by the principal of suspected drug or alcohol use in a school in XYZ school system, the principal shall take the following steps:

- 1. The principal shall call the student into his office or another private place;*
- 2. The principal shall summon (name of designated witness) as witness to the proceeding and to assist in furtherance of the proceeding;*
- 3. The principal shall inform the student of the substance of the information available to him which is the basis for the determination that a test is necessary, and the procedures for such test;*
- 4. The student shall be given opportunity to decline the test and shall be informed of the penalties if the test is declined; and,*
- 5. The parent or guardian of the student shall be notified of the impending test.*

Procedure for Collection of Samples

The sample collection procedure shall be performed in a manner that [1] will assure that the privacy rights of the student are not violated; and, [2] will assure the integrity of the specimen. The specimen taken should be one that is appropriate to the substance for which a test is to be ordered (e.g., urine testing is not appropriate for the detection of alcohol.) Once completed, the specimen will be given a number by the principal and will be forwarded to an accredited laboratory for analysis. The laboratory shall analyze the specimen and send a certified copy of the report of the analysis of the specimen to the school. The laboratory shall retain the specimen for possible retesting for at least ten (10) days. If the result of the testing is negative, all records pertaining to the test and the ordering of such shall be destroyed.

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Policy: The principal of the school shall direct that (name of designated witness) take the student to a designated place in the school and collect a specimen from the student for the purpose of testing.

Specimens shall be taken in a manner which will protect the privacy rights of the student.

Specimens shall be collected in a manner which will assure that the integrity of the specimen itself is not compromised.

The type of specimen taken shall depend on the substance in question.

The tests performed on the specimen shall be most appropriate for accurate detection of the substance in question.

Once taken, the specimen will be given an identifying number by the principal. The identifying number shall in no way reveal the identity of the student.

The principal will forward the specimen to a laboratory accredited by the Tennessee Department of Health and Environment and designated by XYZ school system for analysis.

Upon completion of the analysis, the laboratory will provide a written certified copy of the analysis to the principal of the school. The results shall not be obtained verbally in person or by telephone.

All specimens sent to the laboratory shall be kept for at least ten days in the event that further analysis is requested.

If the results of the analysis are negative, all evidence of the individual test, including all records in the school that the test was ordered, and reasons therefore, shall be destroyed.

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Recommendations in the Event of a Positive Test

In the event that the results of the analysis are positive, the student and parents or guardian shall be given notice of the result. At that time, the student and his parents or guardian shall also be given referral information which shall include inpatient, outpatient and community-based drug and alcohol treatment programs.

Model

Policy: Upon notification that the results of the analysis are positive, the student and parents or guardian shall be given notice of the result in writing.

The student and parents or guardian shall be given referral information which shall include inpatient, outpatient and community-based drug and alcohol treatment programs.

Relationship of the Drug Testing Policy to Other Sanctions Available Under Tennessee Code Annotated.*Model*

Policy: Nothing in this policy shall prohibit XYZ school system from enforcing disciplinary sanctions available to it under other sections of Tennessee Code Annotated.