

STUDENTS

09.423

Use of Alcohol, Drugs and Other Prohibited Substances

DRUGS, ALCOHOL AND OTHER PROHIBITED SUBSTANCES

No pupil shall purchase, possess, attempt to possess, deposit, use, be under the influence of, sell, or transfer any of the following on or about school property, at any location of a school-sponsored activity, or en route to or from school or a school-sponsored activity:

1. Alcoholic beverages;
2. Controlled substances, prohibited drugs and substances and drug paraphernalia; and
3. Substances that "look like" a controlled substance. In instances involving look-alike substances, there must be evidence of the student's intent to pass off the item as a controlled substance.

In addition, students shall not possess prescription drugs for the purpose of sale or distribution.

DEFINITIONS

Controlled substance means any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance added by regulation under [KRS 218A.010](#).

Prohibited drugs include, but are not limited to, any substance that an individual may not sell, possess, use, distribute or purchase under Federal or Kentucky law.

Prohibited substances include:

1. All prescription drugs obtained without authorization, and
2. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, prohibited volatile substances as defined in [KRS 217.900](#) or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

AUTHORIZED MEDICATION

Use of a drug authorized by and administered in accordance with a prescription from an authorized medical provider or dentist shall not be considered in violation of this policy. Please refer to Policy 09.2241 for information on prescribed medication for students.

PENALTY

Violation of this policy shall constitute reason for disciplinary action including suspension or expulsion from school and suspension or dismissal from athletic teams and/or other school-sponsored activities.

REPORTING

Employees of the District shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if they know or have reasonable cause to believe that conduct has occurred which constitutes the use, possession, or sale of controlled substances on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event. In addition, when they have reasonable belief that a violation has taken place, Principals shall immediately report to law enforcement

officials when an act has occurred on school property or at a school-sponsored function that involves student possession of a controlled substance on school property in violation of the law.

PREVENTION PROGRAM

The Superintendent shall establish a comprehensive and on-going drug-free/alcohol-free prevention program for all students which shall include notice to students and parents of the following:

1. The dangers of drug/alcohol/substance abuse in the schools;
2. The District's policies and related procedures on drug-free/alcohol-free schools;
3. The requirement for mandatory compliance with the District's established standards of conduct, including those that prohibit use of alcohol, drugs and other controlled and prohibited substances;
4. Information about available drug/alcohol counseling programs and available rehabilitation/student assistance programs; and
5. Penalties that may be imposed upon students for violations of this policy.

RANDOM DRUG-TESTING PROGRAM

The random student drug-testing program is based on a health and safety rationale with the purpose of prevention. Drug use encourages truancy, disruptive class behavior, bullying, violence, and interferes with learning making it a threat to not only the drug users but to all students and teachers. We recognize that the unlawful use of drugs seriously impairs the health, safety, education, and future success of all students and adults in the school environment.

This student drug-testing policy shall apply to all individuals in grades 6-12 choosing to participate in the designated extracurricular activities identified in this policy, students who apply for a permit to park on school property and students that "opt-in" the program.

Students participating in the designated extracurricular activities, students that apply for a permit to park on school property, and students that opt-into to the program shall be subject to random drug testing, including an alcohol breathalyzer test, throughout the school year.

Each student who plans to participate in any sport and/or extracurricular activity outlined in this policy and his/her parent or guardian shall be required to sign a written consent for drug testing as a prerequisite to the student's participation in the activity. Likewise, any student applying for a parking permit and his/her parent or guardian shall be required to sign a written consent for drug testing as a prerequisite to receiving parking privileges.

Students not participating in the activities outlined in this policy shall also have the option to "opt-in" the drug testing program and shall be placed in the pool of students that may be randomly selected. Once a student opts-in the program, his/her name shall remain in the pool until written notice is received from the student and signed by his/her parent or guardian requesting that the student be removed from the pool.

STATEMENT OF PURPOSE AND INTENT

1. It is the desire of the Henderson County Board of Education, administration, and staff that every student in Henderson County Schools refrains from using, possessing, or distributing illegal drugs and/or alcohol. The actions of the random drug testing policy relate solely to limiting the opportunity of any student violating of the policy to participate in designated extracurricular activities and/or parking on school property. This policy is intended to supplement and complement all other policies, rules, and regulations of Henderson County Schools regarding possession and/or use of illegal drugs and/or alcohol.
2. Representing Henderson County Schools in athletics and/or school sponsored extracurricular activities and parking on school property are privileges. Accordingly, students participating in school sponsored athletic or extracurricular programs at the middle school or high school level carry a responsibility to themselves, their fellow students, their parents, and their school to set the highest possible examples of conduct, which includes avoiding the use or possession of illegal drugs and alcohol. Likewise, students who are granted the privilege to park on school property carry a responsibility to themselves, their fellow students, their parents and their school to demonstrate personal responsibility and exercise the highest level of safety, which includes avoiding the use of possession of illegal drugs or alcohol.
3. The purpose of this policy is to prevent illegal drug use and to strive within Henderson County Schools to create an environment free of illegal drug use and abuse. The sanctions of this policy relate solely to limiting the opportunity of any student in violation of the random drug testing policy to participate in the designated activities and/or to park on school property.
4. The purpose of this policy is to prevent drug/alcohol use; educate students as to the serious physical, mental, and emotional harm caused by drug use; alert students with possible drug problems to the potential harms of use; prevent injury, illness, and harm as a result of drug use; and maintain in the school district an environment free of drug use and abuse. The Henderson County Board of Education has adopted this policy for all students participating in the designated extracurricular activities in grades 6 – 12, students driving and/or parking on school property and students that choose to opt-in to the program.

DEFINITIONS

DESIGNATED EXTRACURRICULAR ACTIVITIES - Any student in grades 6-12 participating in any of the following school sponsored extracurricular activities shall be included as a “Participant” in the student-drug testing program: archery, baseball, basketball, bass fishing, bowling, cheer, cross country, dance team, equestrian, football, JROTC drill team, JROTC rifle team, golf, marching band, soccer, softball, step team, swimming, tennis, track and field, and volleyball.

DRUG USE TEST - A scientifically substantiated method to test for the presence of illegal drugs, performance-enhancing drugs or alcohol in a person's urine, saliva, hair, or breath.

PARTICIPANT - Any individual in grades 6-12 who is involved in any Henderson County School's athletic program or designated extracurricular activity, student drivers and any student that voluntarily "opts-in" to the program shall be eligible to be randomly selected for drug testing.

OFF-SEASON - Refers to those students who participated the previous year or current year in any activity.

IN-SEASON - Refers to those students presently participating in any activity.

PERFORMANCE-ENHANCING DRUGS - Includes anabolic steroids and any other natural or synthetic substance used to increase muscle mass, strength, endurance, speed, or other athletic ability. Dietary or nutritional supplements such as vitamins, minerals, and proteins that can be lawfully purchased in over-the-counter transactions are not included in the term "performance-enhancing drugs."

POSITIVE RESULT - A toxicological test result that 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 laboratory administering the drug use test. "Positive" when referring to an alcohol test administered under this policy means a breath analyzer test result that is considered to demonstrate the presence of alcohol.

REASONABLE SUSPICION - Based on specific personal observations concerning the appearance, speech, or behavior of a participating student, and reasonable inferences drawn from those observations in light of experience. Information provided by a reliable source, if based on personal knowledge, shall constitute reasonable suspicion. In the context of performance-enhancing drugs, reasonable suspicion could also include unusual increases in size, strength, weight, or other athletic abilities.

RANDOM SELECTION - Each participant who has returned a signed consent form will be assigned a random number for testing purposes. The participant's drug test number will be used by the laboratory which conducts the drug tests to select the participants to be tested.

SCHOOL DAYS- Days that school is actually in session in Henderson County.

ALCOHOL- the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic methyl alcohol.

PROCEDURE

1. Each participant in the designated extracurricular activities and all students applying for parking permits shall receive copies of the "Student Drug Testing Consent Form" which shall be read, signed, and dated by the student and parent or guardian. All students wanting to participate in the designated extracurricular activities and/or to park on school property must sign a consent form. This form must be returned to the office within five (5) school days of receipt. Failure to turn in a properly signed consent form within the time limits set forth in this policy will keep a student from participating in the designated activity. Parking permits will not be issued until the signed consent form has been received.
2. Students will be required to provide samples as follows:

- a. On a random selection basis, from a list of all students in the testing pool, up to ten (10) students from Henderson County High School, three (3) students from North Middle School and three (3) students from South Middle School may be drawn at random to provide a urine or oral fluid sample approximately once a week.
- b. At any time requested by the administration, based upon reasonable suspicion.
- c. Any drug use test required by Henderson County under the terms of this policy will be administered by a professional laboratory chosen by Henderson County Board of Education, using scientifically validated toxicological methods. The professional laboratory shall be required to have detailed written specifications to assure chain of custody of the specimen, proper laboratory controls, and scientific testing.
- d. All aspects of the drug-testing program, including the taking of specimens, will be conducted in a manner to safeguard the personal and privacy rights of students 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 private area.

The principal shall designate a drug laboratory employee or school employee to accompany the student to a private area. When collecting a urine sample, the student shall be permitted to enter a private stall, with the monitor remaining present in the room. The sample shall be immediately collected by the monitor, labeled, tested (if testing is on site) and sealed for retention by the laboratory. When collecting an oral sample, the monitor shall observe the student while the specimen is being produced. An oral swab brush shall be placed under the tongue and/or along the lower gum of the student for up to five minutes. The swab brush will then be placed in a vial and the wand snapped at the scored mark in accordance with the instructions for the specific test being utilized. The vial will then be recapped and sealed for delivery to the laboratory.

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. At that time the monitor will inform the principal, who will then determine if a new sample should be obtained. If a new sample is requested, the monitor will be present to collect the sample along with the student and one other witness.

- e. If the initial drug test is positive, the initial test result shall be subject to confirmation by a second test at an identified laboratory. The test result shall not be reported positive unless the second test is positive for the presence of an illegal drug.
- f. If the second test confirms a positive result, the laboratory will report the results to the building principal or his/her designee. The school will then be responsible for contacting the parents or guardian of the student with the results and will solicit information regarding any medications the student may be taking. If needed, the school will contact a certifying scientist at the laboratory regarding any drug interactions which may influence the test results.
- g. The building principal will contact the athletic director, head coach/sponsor, student, and parent/guardian to schedule a conference. At the conference the

principal will solicit any explanation of the positive result. If the student asserts the positive test results are caused by something other than consumption of an illegal drug, performance-enhancing drug, or alcohol, the student and his/her parents or guardian will be given the opportunity to present such evidence at the conference. The school district will rely on the professional opinion of the laboratory that performed the confirmation test in determining whether the positive test result was produced by something other than the consumption of an illegal drug, performance-enhancing drug, or alcohol. A decision shall be made by the principal, athletic director, and coach/sponsor within five (5) working days of the conference.

- h. This decision may be appealed in writing to the Superintendent within five (5) working days. The Superintendent shall make a written decision within five (5) working days of receiving the appeal. During the time of this appeal, the student will not be eligible to attend, participate in, or compete in extracurricular activities.
- i. The Superintendent's decision may be appealed in writing to the Henderson County Board of Education within five (5) working days. Upon receipt of the appeal, the Board, after consultation with legal counsel, may elect to call a special meeting to hear the appeal. During the time of this appeal, the student will not be eligible to attend, participate in, or compete in extracurricular activities.
- j. A student who has tested positive for illegal or performance-enhancing drugs will be required to undergo one or more additional drug tests to confirm that the student is no longer using illegal or performance-enhancing drugs. A student may participate in activities and/or have parking privileges reinstated after his/her initial suspension is served. However, the student will need to pass a second test within thirty (30) days of the positive test result to maintain participation privileges.
- k. All parents/guardians of students who do not test positive for illegal drugs or performance-enhancing drugs in the initial screening will be contacted by Henderson County personnel within ten (10) working days after testing.

TRANSFER STUDENTS

Any student transferring to a Henderson County School who wishes to participate in a designated extracurricular activity or apply for a parking permit must have a signed "Student Drug Testing Consent Form" on file with the principal's office within five (5) school days of his/her initial enrollment.

VIOLATIONS

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

1st Offense – For the first offense, the participant shall be suspended from participation in any and all contests and student drivers shall have their parking permit suspended for four (4) weeks from the date of the initial positive test. Student involved in designated extracurricular activities may attend practice sessions, continue to attend team-group functions and sit with

fellow participants at events during the four (4) week suspension. Any participant who tests positive will be required to provide a negative drug test, at his/her own expense, before regaining eligibility. Failure to provide a negative drug test, within thirty (30) days of the initial positive test will be considered a second violation.

During the period of suspension, it is encouraged the student receive drug counseling to assist in stopping the abusive behaviors that have occurred. The school will provide to the parent/guardian/custodian information on available counseling.

2nd Offense – For the second offense, the participant will be suspended from participation in any and all designated extracurricular activities and student drivers shall have their parking permit suspended for eighteen (18) weeks from the date of the confirmation of the positive test. The participant must provide a negative drug test at his/her own expense before regaining eligibility to participate in activities or reinstatement of parking privileges. If a participant does not comply, he/she will be suspended from any and all participation in any and all activities for the remainder of the season and/or parking privileges shall be revoked until such time as a negative test result is provided.

During the eighteen (18) week period, it is encouraged the student receive drug counseling to assist in stopping the abusive behaviors that have occurred. The school will provide to the parent/guardian/custodian information on available counseling.

3rd or Subsequent Offense – For all subsequent offenses, the participant will be suspended from participation in all in-season and/or off-season activities and student drivers shall have their parking permit suspended for three hundred sixty five (365) calendar days from the date of the confirmation of the positive test.

Any violation of this policy that occurs while a student is in the 9th, 10th, 11th or 12th grade, shall be cumulative in considering the level of offense.

Provided all criteria outlined in this policy have been met, students shall enter high school with a clean slate. Any violation of this policy which occurs after completion of the 8th grade shall be considered as a first offense, regardless of whether the student had a previous violation of the policy in grades 6-8.

Students “Opting In” – Parents with students in grades 6-12 who participate in the drug-testing program voluntarily, but do not participate in any activities that are subject to this drug-testing policy and test positive, will be notified of such positive test, but the student will not be penalized through this policy.

RETEST AFTER SUSPENSION

In the case of retesting a student suspended for marijuana, a lower level of the substance might continue to be evident for up to ninety (90) days because of the extended length of time the substance stays in the body. In this situation the student will be allowed to participate in designated extracurricular activities once he/she completes the required suspension. If the marijuana level stays the same or increases on the additional tests it will be treated as a second

positive test. It will also be considered a second positive if any level is detected after ninety (90) days.

REFUSAL TO SUBMIT TO DRUG USE TEST

If a participant refuses to submit to a drug test authorized under this policy, the participant will be considered to have had a positive test and will receive the restrictions according to the offense. Any student who has a positive initial test and refuses to complete the required paperwork for a confirmation test will be treated as a refusal to submit to testing and be subject to the restrictions/suspension imposed for the next level offense.

SELF-REPORTING

A student who has never tested positive under this policy shall have the option to voluntarily “self-report” the use of an illegal drug/alcohol. Under this self-reporting clause, the student must self-report to the principal prior to being selected in a random draw. Any student who self-reports a 1st offense shall have a five (5) school day suspension from all contests. The student must also produce a negative test at his/her own expense within thirty (30) days. Students cannot self-report if they have already tested positive as a 1st offense

DISCLAIMER

The Henderson County Student Drug Testing Policy does not supersede the student handbooks for the middle or high schools or any other policy adopted by the Henderson County Board of Education with regard to students found to be in possession of, using, providing, or under the influence of illegal substances or alcohol while on school property or at a school activity (home or away). Therefore, a student who violates any Board policy or any of the policies set forth in the student handbooks should expect further consequences as deemed appropriate by the building principal.

This policy shall not supersede any state and/or federal law or KHSAA policy on this topic.

REFERENCES:

[KRS 158.150](#); [KRS 158.154](#); [KRS 158.155](#)

[KRS 160.290](#); [KRS 161.180](#)

[KRS 217.900](#); [KRS 218A.020](#); [KRS 218A.1430](#); [KRS 218A.1447](#)

[OAG 82-633](#); [OAG 93-32](#)

Clark County Board of Education vs. Jones, KY. App., 625 S. W. 2d 586 (1981).

Board of Ed. of Tecumseh Public School District, Independent School Dist. No. 92 of Pottawatomie Cty. v. Earls, ___ U.S. ___, 242 F.3d 1264 (2002).

Improving America's Schools Act of 1994 (IASA), Title IV: Safe and Drug-Free Schools and Communities

RELATED POLICY:

09.2241