

MITCHELL COUNTY BOARD OF EDUCATION

BOARD POLICY 3623/4343: Mitchell County Schools Drug Screening

Random Student Drug Testing

I. General Policy Statement

The Mitchell County Board of Education strongly believes that drug and alcohol abuse can be detrimental to the physical and emotional health and the academic performance of its students. It is from this belief and out of concern for students' well being that a random student drug testing program is initiated in the Mitchell County Schools. The purpose of the random drug testing program is to help students, not to be punitive in nature. Therefore:

- A. A positive test will not result in suspension from school or notification to legal authorities.
- B. Students will not be penalized academically for testing positive for illegal drugs or banned substances.
- C. A first positive test will be reported only to parents, the superintendent's designee and the principal. This positive test will not result in ineligibility from any school activities unless the first positive test policy procedures are not followed as outlined under Section VII. A. of this policy.

II. Rationale for Student Drug Testing

The Mitchell County Board of Education enacts this random student drug testing policy based on the following findings:

- A. Drug and substance abuse by students is a significant problem throughout the nation.
- B. Mitchell County, due to its demographics is particularly susceptible to substance abuse problems.
- C. There is a problem of alcohol and drug abuse among Mitchell County residents.
- D. The primary responsibility for addressing substance abuse by students rests with parents/guardians.
- E. The school system and the community at large also have a responsibility for addressing substance abuse by students.
- F. Mitchell County Schools has implemented various prevention education and intervention programs to reduce substance abuse among Mitchell County students, and is committed to continue addressing the substance abuse problem head-on rather than ignoring it.
- G. The U.S. Supreme Court has authorized the use of random drug testing of students who elect to participate in voluntary school activities that are privileges rather than rights.
- H. An increasing number of school districts in North Carolina and across the country

- have enacted random student drug testing policies.
- I. School districts that have enacted random student drug testing policies report positive results in reducing drug use, reducing discipline problems and in fostering a school culture resistant to drug and alcohol abuse.
 - J. Students who participate in athletics and other activities are representatives of the school system and are often role models for other students.
 - K. A random drug testing policy of students engaged in voluntary school activities is likely to be an effective tool in reducing substance abuse and undermines the effects of peer pressure by providing a legitimate reason to refuse to use illegal drugs.

III. Goals of Student Drug Testing

The random drug-testing program is not intended to punish students, but to help them.

Goals of the random student drug-testing program are:

- A. To educate students about the dangers and problems associated with drug and alcohol use/abuse;
- B. To deter drug and alcohol use/abuse by students;
- C. To identify students participating in competitive athletics may be abusing drugs and to determine the identity of the drug(s);
- D. To provide information to parents so that parents/guardians can take appropriate steps at the family level to assist students;
- E. To motivate students to resist negative peer pressure and have a good reason to “say no” to drugs and alcohol;
- F. To provide opportunities for counseling and treatment for any student who is determined to be using/abusing drugs and alcohol;
- G. To help ensure the safety of students who participate in competitive athletics.
- H. To remove the stigma of drug use/abuse from those students who do not use drugs;
- I. To develop a drug-free program that produces students who can serve as role models and influence their peers to lead healthy and responsible lives; and
- J. To complement the school system’s overall drug education program.
- K. To provide a volunteer drug testing program for students and parents.

IV. Students Subject to Random Drug Testing

- A. All students in grades 9-12 who desire to participate in any of the following voluntary school activities must agree to participate in the random student drug testing program:
 - 1. Interscholastic athletics;
 - 2. All extra-curricular activities;
 - 3. Students who volunteer to enter the program as set forth in subsection D below.

- B. All students in grades 7-9 who desire to participate in the following voluntary school activities must agree to participate in the random student drug testing program:
 - 1. Interscholastic athletics.

- C. Participation in the random drug-testing program is mandatory only for students who elect to participate in the above voluntary activities in which participation is a privilege not a right. Participation in the random drug-testing program shall not be required as a condition of attending school, enrolling in any class, or participating in any activity that receives a grade recorded on the student's transcript. However, every student attending a Mitchell County School is subject to Board Policy SA-1: Student Conduct and Discipline which prohibits the possession, use, transmission and being under the influence of drugs and alcohol while at school or at an off-campus school activity.
- D. Any parent of a student in Mitchell County Schools may consent to the student voluntarily participating in the random drug testing program, whether or not the student is a participant in any of the privileged activities listed above. The same procedures will apply, as outlined in this policy, for all students participating in random student drug testing. Furthermore, any parent of a student in Mitchell County Schools may request when their student is tested as well. Any test performed pursuant to this section may be billed directly to the parents of the student requested.
- E. The administration shall prepare a Drug Testing Consent Form to be signed by the student and the student's parent/guardian. The parent/guardian shall be given a copy of the signed Consent Form and this random student drug testing policy. The original Consent Form shall be kept in the student's official file.
- F. Students who desire to participate in the voluntary activities or privileges covered by this program shall sign the Consent Form prior to the beginning of the sport season athletic practice, at the beginning of the school year, or soon thereafter. The Consent Form will authorize random drug testing for the student's entire school career in Mitchell County Schools.
- G. A signed Consent Form may be revoked by a signed Withdrawal of Drug Testing Consent Form. The withdrawal form must be signed by the student and the parent/guardian prior to the day of testing. A student who withdraws will no longer be subject to random drug testing and will not be eligible for participation in the voluntary activities or privileges covered by this policy until after the end of the current school year. After the current year ends, students who desire to participate in any of the voluntary competitive school activities or privileges must agree to participate in the random student drug testing program by submitting a new consent form.¹
- H. Except for the students subject to testing per parent request as set forth in Section IV (D) above, no student may be randomly tested more than three times in any academic year, so long as the test results are negative.
- I. The Superintendent may choose not to include certain groups in the testing pool or choose to suspend testing altogether if there are insufficient funds to perform the tests.

V. Implementation

A. Key Implementation Roles –

1. **Contracted Test Administrator (Vendor)** - The drug testing program

will be implemented on behalf of the school district by a Test Administrator, which shall be an independent agency or entity operating under contract with the Board of Education. The contracted Test Administrator shall have experience in implementing a drug testing program.

2. **Medical Review Officer (MRO)** - The contracted Test Administrator shall employ or provide by subcontract, a licensed physician certified as a Medical Review Officer.
3. **Superintendent's Designee** - The superintendent shall designate an administrator of the school district to coordinate the district's drug testing program (District Drug Test Coordinator). This administrator will receive all information and results provided by the vendor and the MRO in order to fully coordinate this program.
4. **Licensed Substance Abuse Professional (LSAP)** - Licensed substance abuse professionals whose professional credentials are acceptable to the Superintendent and/or designee shall conduct all substance abuse assessment and counseling services.

B. Role of School System Employees - Mitchell County School personnel shall not assist with the actual testing or physical collection of the samples, shall have no access to the test samples, and shall not select the students who will be randomly tested. These functions will be carried out by the contracted Test Administrator. School system employees will be expected to call students from their regular class schedule and assist with coordinating testing as needed.

C. Random Selection - Eligible students will be randomly selected for testing by the contracted Test Administrator using the following process:

1. The Superintendent's designee shall maintain a list of all eligible students who have signed Consent Forms. The list shall be updated prior to each testing date.
2. Each eligible student on the list shall be assigned a number by the Superintendent's designee.
3. The Superintendent's designee shall provide the contracted Test Administrator with a list of the students' numbers (and matching names).
4. Prior to each testing date, the Superintendent's designee will notify the contracted Test Administrator as to what number or percentage of students will be tested.
5. The contracted Test Administrator shall randomly generate a list of student numbers representing students to be tested. The randomly generated student numbers shall be categorized by school, and to the extent practicable, shall consist of the same percentage of students at each school. Students who were absent on a testing date, after their previous selection under this random selection process, shall be added to the next randomly generated list. The list shall be provided to the Superintendent's designee.
6. The Superintendent's designee will match the randomly generated student numbers with the students' names, and will notify each school, which students

are to be tested.

7. Selected students shall be pulled from class schedule for testing on testing day. There shall be no advance notification of which students will be tested.
8. Documentation of the selection process shall be maintained.

D. **Absences** - A student who is absent on the day of a test shall be excused from testing, but shall be added to the pool to be tested on the next testing date. However, a student who is present at school on the day of testing and avoids testing by leaving campus (or cutting class) without a valid excuse for that day shall be considered as having refused to be tested.

E. **Refusal to Test or Tampering with a Test** - A refusal to be tested, or an attempt to alter, substitute, adulterate or otherwise tamper with a test sample, shall result in a declaration of a positive test which invokes the appropriate consequence outlined in Section VII of this policy.

F. **Frequency of Tests** - Random drug testing will be conducted as frequently as possible during the academic year. The dates and times of testing will not be publicized in advance.

G. **Location of Tests** - To the extent possible, the testing will occur at the school at which the student(s) to be tested attends.

H. **Number of Students Tested** - The percentage and/or number of eligible students at the high school which will be tested in the course of a year will be determined by the administration and test administrator. The administration and test administrator shall determine what number and/or percentage of eligible students are tested on each test date.

I. **Type of Tests** - Testing will be by urine or saliva specimen.

J. **Confidentiality** - All test results will be strictly confidential, including the maintenance of the sample throughout the collection and testing process. All reported results will be maintained by the Superintendent's designee in a locked file cabinet. Disclosure of test results will be limited to those who have a need to know in order to implement this policy. When under this policy a student becomes ineligible to participate in any voluntary activity, the principal shall inform the particular coach that the student is ineligible.

K. **Falsification of Information** – Students who falsify information on the required forms will be subject to discipline sanctions under Board Policy and the school's Code of Conduct.

L. **Parent Notification** - Parents will be notified by school officials of their child's participation in drug testing after the test is administered.

VI. Tested Substances

Substances for which students may be tested may include, but are not limited to:

Amphetamines/Methamphetamine	Alcohol
Barbiturates Benzodiazepines (Valium)	Cocaine
Marijuana (THC)	Methadone
Opiates (Oxycontin, Vicodin)	Performance Enhancer
Phencyclidine (PCP)	Propoxyphene (Darvon)
Test Adulterants	

At the recommendation of the contracted Test Administrator and determination by the Superintendent, designee and/or principal, students may be tested for other or additional substances for which use by a student is illegal or banned.

VII. Consequences of Positive Tests

A. First Positive Test:

1. The student and student's parent/guardian are notified by the Medical Review Officer (MRO). The parents/guardian will have 7 calendar days to conference with the MRO to confirm the results of the test. If the parents/guardians fail to conference with the MRO, the test will be reported as "positive-non-contact" to the Superintendent's designee.
2. The student will have the opportunity to take a second test as set out in Section X, below.
3. The MRO will notify the superintendent's designee of the student's first positive test. The Superintendent's designee will notify the student's principal. The student's principal, however, will not notify any other school personnel unless required by this policy or if notification is in the best interest of the student's safety.
4. The student is not precluded from participation in the voluntary activities subject to this program, as a result of the first positive test, provided the parent/guardian provides the MRO with a certification from the student's physician, on the form attached to this policy. If the physician's certification is not provided to the MRO within 14 calendar days, the MRO shall promptly notify the Superintendent's designee, and the student shall be ineligible to participate in the voluntary activities covered by this policy until such physician's certification is filed with the MRO.
5. The MRO shall provide the parent/guardian a list of resources for substance abuse assessment and intervention in the Mitchell County area.
6. The parent/guardian is encouraged to actively seek assistance for the student.
7. In order to regain eligibility, the student must agree to be subject to a mandatory retest between 30 and 90 calendar days of the first positive test. The student will be identified by the contracted Test Administrator for retesting on a regularly scheduled test date. School officials will not know whether the student is being retested as a mandatory retest or whether the

student's number was randomly drawn.

8. Any retest under this section is paid for by Mitchell County Schools.

B. Second Positive Test:

1. Upon a second positive test at any time during the student's school career, the contracted MRO shall notify the Superintendent's designee and the student's parents. The parents/guardians will have 7 calendar days to conference with the MRO. If the parents/guardians fail to conference with the MRO, the test will be reported to the Superintendent's designee as "positive-non-contact."
2. The Superintendent's designee will notify the student's principal. The student's principal, however, will not notify any other school personnel unless required by this policy or if notification is in the best interest of the student's safety.
3. The student will have the opportunity to take a second test as set out in Section X, below.
4. A conference will be scheduled between the school principal, the student, and the student's parent/guardian.
5. The student is ineligible to participate in the voluntary activities covered by this policy for the remainder of the semester or 90 school days.
6. The student may regain eligibility at the beginning of the new semester after the completion after completion of the 90-day suspension upon compliance with all of the following requirements:
 - a. The student shall satisfy the substance abuse assessment-counseling requirement of Section VIII below. For a second positive test, the student is considered in compliance once he or she has completed the substance abuse assessment and is participating in any recommended counseling or treatment program.
 - b. The parent/guardian shall supply to the MRO a certification from the student's physician, on the form attached to this policy.
 - c. A student shall test "negative" on a retest prior to regaining eligibility. This retest may be the mandatory retest provided in subsection 5 below, or may be a privately arranged test by a licensed drug testing agency acceptable to the Superintendent's designee. A privately arranged drug test shall be at the expense of the parent/guardian.
7. In order to regain eligibility, the student must agree to be subject to a mandatory retest between 30 and 90 calendar days of the second positive test.
8. A student that is "positive-non-contact" cannot participate in a voluntary activity until meeting the requirements of this section.

C. Third Positive Test:

1. Upon a student's third positive test any time during the student's school career, the MRO shall notify the Superintendent's designee. The parents/guardians will have 7 calendar days to conference with the MRO. If the parents/guardians fail to conference with the MRO, the test will be reported to the Superintendent's designee as "positive-non-contact."
2. The Superintendent's designee will notify the student's principal. The student's principal, however, will not notify any other school personnel unless required by this policy or if notification is in the best interest of the student's safety.
3. The student will have the opportunity to take a second test as set out in Section X, below.
4. A conference will be scheduled between the student's parents, the student, and school principal.
5. The student will be ineligible to participate in the voluntary activities covered by this policy for 365 calendar days.
6. The student may regain eligibility after 365 calendar days, upon compliance with all of the following requirements:
 - a. The student shall satisfy the substance abuse assessment/counseling requirement of Section VIII below.
 - b. The parent/guardian shall supply to the MRO a certification from the student's physician, on the form attached to this policy.
 - c. The student will be subject to a mandatory retest before regaining eligibility at the expense of the parent/guardian.
7. In order to regain eligibility, the student must agree to be subject to a mandatory retest during the 365 day period after the third positive test.
8. A student that is "positive-non-contact" cannot participate in a voluntary activity until meeting the requirements of this section.

D. Fourth Positive Test:

1. Upon a student's fourth positive test any time during the student's school career, the MRO shall notify the Superintendent's designee. The student and the student's parents are notified by the MRO. The parents/guardians will have 7 calendar days to conference with the MRO. If the parents/guardians fail to conference with the MRO, the test will be reported to the Superintendent's designee as "positive-non-contact."
2. The Superintendent's designee will notify the student's principal. The student's principal, however, will not notify any other school personnel unless required by this policy or if notification is in the best interest of the student's safety.
3. A conference will be scheduled between the student's parents, the student, and school principal.
4. The student will be ineligible to participate in the voluntary activities covered by this policy for the remainder of his/her school enrollment.

5. A student that is "positive-non-contact" cannot participate in a voluntary activity until meeting the requirements of this section.

VIII. Substance Abuse Assessment/Counseling Requirement

Whenever a student is required to satisfy the substance abuse assessment/counseling requirement of this policy, the student shall:

- A. Undergo a substance abuse assessment by a licensed substance abuse professional. Parents who request will be provided a list of licensed professionals. This assessment shall be at the expense of the parent/guardian.
- B. Provide the school principal with written certification by the licensed substance abuse professional that the substance abuse assessment has been completed.
- C. Undergo counseling/treatment or other intervention, if any, as recommended by the licensed substance abuse professional. The Board of Education will not specify requirements of any such counseling/treatment or intervention, as this will be based on the student's individual needs. The Board of Education's interest is that the student receives whatever assistance is appropriate for the particular individual.
- D. Failure to fully cooperate or comply with substance abuse assessment or any counseling/treatment program recommended by the licensed substance abuse professional shall make the student ineligible for participation in the voluntary activities covered by this policy.

IX. Test Procedures and Safeguards

- A. **Urine Test** - Testing will be by urine specimen. If the student is physically unable to provide a urine sample, a saliva test may be administered.
- B. **Screening Test** - The urine specimen shall be screened using an enzyme immunoassay (EIA) test or other screening test approved by the College of American Pathologists (CAP) or the Department of Health and Human Services (HHS).
- C. **Confirming Test** - If the screening test indicates the presence of a controlled substance, the specimen shall be subject to a confirming test by gas chromatography/mass spectrometer (GC/MS).
- D. **Split Sample** - Each student's urine sample shall be split into two samples. In the event of a confirmed positive test, a student may request that a portion of his/her urine sample be tested by another state or federal approved laboratory at his/her expense. If this test result is negative, the student/parent will be reimbursed.
- E. **Standards for Positive Test** - The contracted Test Administrator will use the

standard cutoff scores generally used by CAP or HHS for determining a positive test result.

- F. **Use of Licensed Laboratory** - The contracted Test Administrator must use a laboratory that is appropriately licensed by CAP or HHS. (The laboratory must also be approved by North Carolina state law and accredited to conduct drug testing in this state.)
- G. **Use of Certified MRO** – The contracted Test Administrator must use a physician who is a certified MRO who has met the federal regulation requiring initial MRO certification. Current MRO re-certification must be maintained either through the Medical Review Officer Certification Council (MROCC) or through the American Association of Medical Review Officers (AAMRO).
- H. **Expense** - The expense, if any, of the assessment or counseling/treatment program shall be the responsibility of the parent/guardian, not the Mitchell County Schools.

X. Medical Review Officer

- A. The Test Administrator shall report any test found “positive” for the presence of a tested substance directly to the MRO.
- B. The MRO shall notify the student and the student’s parent/guardian of the test results and provide an opportunity to present information, such as the documented use of a prescription medication or an over-the-counter drug, which would render an apparent “positive” result invalid or “negative.”
- C. Failure or refusal of the student or the student’s parent/guardian to cooperate with the MRO shall constitute a refusal to test, which is considered a positive test.
- D. The MRO shall inform the student and the student’s parent/guardian of the opportunity for an additional confirming test at the student’s/parent’s expense on the remaining sample of the student’s urine. If the additional confirming test is negative, the student/parent will be reimbursed.
- E. If the MRO determines that an apparent “positive” test result is the result of a lawful use of a prescription or non-prescription drug, the test result shall be considered as “negative.”
- F. If the MRO determines that the test results are valid and positive, the MRO shall inform the student and the student’s parent/guardian of this determination.
- G. The MRO will not notify the superintendent’s designee on a first positive test, consistent with the consequences of a first positive test as set forth above, but the designee will have access to all data and reports provided by the MRO and the contracted vendor. After the first positive test, the MRO shall report any subsequent positive test to the Superintendent's designee.

XI. Method of Collection of Urine Samples

The following procedures shall be used for the collection of urine specimens at the individual schools.

- A. **Notice of Collection** - All students selected for testing at a school shall not be notified simultaneously. A school administrator will notify each student personally that he/she has been selected for testing immediately prior to testing. The student shall not be allowed to go to his/her locker for any reason. The student may not leave the testing area until he/she has provided a urine/saliva specimen.
- B. **Cooperation** - If the student refuses to cooperate with school employees or the contracted Test Administrator's staff, the student's refusal to cooperate shall be treated as a "**positive**" test result.
- C. **Time of Collection** - In general, urine specimens will be collected as determined by the contracted Test Administrator in conjunction with a school administrator.
- D. **Collection Location, Supplies and Equipment** - Each school and the contracted Test Administrator shall select by mutual agreement one or two restrooms to use for collecting urine samples.
- E. **Protection of Student's Privacy.** - The contracted Test Administrator's staff shall not view a student in the act of providing a specimen, but shall monitor each student in a non-intrusive but controlled manner to detect any attempt to provide a false urine specimen. Immediately upon receipt of a urine specimen it shall be tested to determine its temperature. All specimens outside of normal temperature limits will be considered invalid and the student shall be required to provide another urine sample.
- F. **Chain of Custody** - The contracted Test Administrator shall implement procedures to ensure that each student's urine sample is appropriately labeled and secured to prevent each sample from being lost, misplaced, or contaminated. At a minimum, the contracted Test Administrator shall:
 - 1. Provide each student with a sanitized kit containing a specimen bottle. The bottle will remain in the student's possession until a seal is placed on the bottle by the collection staff. The student will sign a form certifying that the bottle contains his/her urine sample and that the specimen has been sealed. The seal may be broken only by the lab testing the specimen.
 - 2. After the specimen has been sealed, the specimen shall be transmitted to the testing laboratory by the contracted Test Administrator.
 - 3. In order to maintain confidentiality, the specimen bottle shall be labeled with the student's number and not the student's name. In addition, the

results sheet mailed by the laboratory to the contracted Test Administrator or MRO shall report the results by student number and not by name.

- G. **Refusal or Inability to Provide Sample** - The contracted Test Administrator shall implement appropriate procedures for use in the event a student refuses to provide a urine sample or states that he/she is physically unable to provide a urine sample. A refusal to provide a urine sample will be treated as a “positive” test result with consequences stated in Section VII of this policy. If a student says that he/she is unable to provide a urine specimen, the student will be given water to provide a urine sample. If the student is still not able to provide the urine sample a saliva test will be administered. If the student states that he/she has a medical problem that prevents the student from providing a urine sample, the student will be given the opportunity to communicate with the MRO, who shall determine whether or not the student has a legitimate medical reason not to be tested by a urine specimen and in turn approve a saliva test.

XII. **Evaluation and Review of Policy**

The contracted Test Administrator shall provide periodic statistical reports (without identifying students’ names) to the Superintendent’s designee, indicating the numbers of students tested and the numbers of first, second and third positive test results, by substance and by school. The Superintendent will make an annual report to the Board of Education regarding the impact of this policy. Two years after the policy's adoption, the Board will review the policy's effectiveness and vote whether to maintain, revise or cancel the policy.

Legal References: U.S. Const., Amend. IV; N.C. Gen. Stat. 115C-47(4); Bd. Of Education of Independent School Dist. No. 92 of Pottawatomie County v. Earls, 122 S. Ct. 2559 (2002)

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