

5530.01 - DRUG TESTING

Drug and alcohol abuse in any school is a threat to the safety and health of students, faculty, staff, and the community as a whole. It jeopardizes the efficiency and the quality of educational programs as well as having the potential of physical harm. The risks associated with such abuse may include the possibility of impaired judgment, diminished capacity, and deterioration of the organs of the body, addiction, and conditions that substantially inhibit a person from performing to his/her fullest ability. It is not intended to be solely disciplinary or punitive in nature, for the educational opportunities offered in the various buildings will continue to direct students away from drugs and alcohol and toward a healthy, safe, and drug-free life. It is the right of every parent to expect that each student is receiving the best education that can be provided by Avon Community Schools.

DRUG TESTING PROGRAMS

All courses, programs, and activities are an integral part of the school system. The value for a student's personal development must be given a high priority for the community that wants to have a total school program. The opportunity for participation in any program, including athletics, is not an absolute right. Participation is a privilege offered to students and necessitates that students meet high standards. Driving to school is also a privilege granted to students under conditions that include operating a vehicle in a safe and legal manner.

Avon Community Schools encourages all students, who hold a valid driver's license, to drive on school grounds and to participate in activities and programs, but also believes that these opportunities are not an absolute right, but privileges offered to students who meet both the scholastic and physical conditions of eligibility.

A condition for participation in privileged activities in the Avon Schools shall be an agreement by the student to submit to probable cause and/or random testing for the use of drugs and alcohol. Probable cause (reasonable suspicion) drug testing will apply to all students enrolled in the Avon Schools. The random drug testing program will be applied to students, male and female, who choose to participate in non-credit, extra-curricular activities, and/or who drive to, from, or during school while a student in any of the Avon Schools that has declared that the school will participate in the Corporation's random drug-testing program approved by the Avon School Corporation's School Board.

Statistics on testing and results, which do not include specific student identification, shall be compiled at the end of each school year and made available to the Central Office Administration and to the School Board who may release the data at the Board's discretion.

REASONABLE SUSPICION DRUG TESTING

Administrators of the Avon Community Schools are authorized by the Avon School Board to require any Avon student to submit to a chemical test of the student's breath or urine if the administration has "reasonable suspicion" that the student is using or is under the influence of alcohol, marijuana, or any other illegal substance while:

- A. on school grounds;
- B. off school grounds at a school activity, function, event, or any other school sponsored activity;
- C. when traveling to or from school by bus or other transportation.

Reasonable suspicion may arise from the following:

- A. A student's behavior, in conjunction with physical appearance, actions, and/or odor, indicating the possibility that the student has used or is in possession of alcohol, marijuana, or any other controlled substance.
- B. The student possesses drug paraphernalia, alcohol, marijuana, or any controlled substance.
- C. Information communicated to an administrator by a teacher, parent, law enforcement personnel, other adult, or a student indicating a student is using, possessing, or under the influence of alcohol, marijuana, or any other illegal substance. Any such report will be investigated by the school's administration and will be substantiated by other physical indicators or physical appearance, if deemed necessary.

Any substance for which a student has a prescription or written permission from a parent must be brought to the school health office and administered or taken there or it may be considered as an illegal substance unless substantiated in writing as a legal prescription issued to the student by a physician.

No student may provide to any other student, by sale or any other means, any substance, that is represented to be a narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, stimulant, inhalant, legend drug, depressant, or intoxicant of any kind.

No student may possess, use, or be under the influence of any substance which is, or the student has any reason to believe is, or which has been represented to be a narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, stimulant, legend drug, depressant, inhalant, or intoxicant of any kind, or any kind that closely resembles, or is represented to be any of the foregoing items. As per the school's student/parent agenda, prescription and non-prescription drugs must be taken to the clinic and stored there by the nurse in the name of the student. Medicines will not be given by anyone but the school nurse or a designated employee.

Students are prohibited from possessing, ingesting, transmitting, or selling caffeine-based pills or substances containing pseudophedrine or other over-the-counter stimulants while on school property or engaged in a school-related activity. Should student's behavior suggest inappropriate or excessive use of these substances, all provisions of the "Reasonable Suspicion" policy will apply.

The following conduct is criminal under Indiana Code and school officials are required to report such conduct – on school grounds, or within 1000 feet of school grounds – in writing to law enforcement personnel.

- A. Knowingly or intentionally manufacturing or delivering cocaine, a narcotic drug, or other controlled substances including marijuana, hash oil, or hashish; or possessing with intent to manufacture or deliver, the above named substance, including marijuana, hash oil or hashish.
- B. Knowingly or intentionally delivering any substance that is represented to be a controlled substance.
- C. Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a controlled substance.
- D. Knowingly or intentionally possessing a controlled substance.
- E. Knowingly or intentionally creating or delivering a counterfeit substance or possessing with the intent to deliver, a counterfeit substance.
- F. Knowingly possessing, without a valid prescription, cocaine or a narcotic drug.
- G. Knowingly possessing, without a valid prescription, a controlled substance, except marijuana

or hashish.

- H. Knowingly or intentionally manufacturing, designing, keeping for sale, offering for sale, delivering, or possessing an instrument device or other object that is intended to be used primarily for introducing a controlled substance into the human body, testing the strength, effectiveness or purity of a controlled substance, or enhance the effect of a controlled substance.
- I. Knowingly or intentionally manufacturing or delivering, or possessing, with intent to manufacture or deliver, marijuana, hash oil or hashish.
- J. Knowingly or intentionally possessing marijuana, hash oil, or hashish.

An administrator and/or health services personnel trained to administer drug tests may conduct a test of a student's breath or urine. The cost of one (1) school-initiated breath or urine test will be paid for by the School Corporation and will be used for disciplinary action. After reasonable suspicion has been established by the administration, a student's refusal to submit to drug testing may result in the administration's proceeding as if the test were positive. If a parent or guardian refuses to allow any drug testing to be administered to his/her child, disciplinary action may be taken as if the test were positive.

If a parent chooses to have the student retested at a health facility, the School Corporation is not responsible for any of the costs. The school's retest form must be completed before retesting is done and the student will be suspended from school until the retest results are provided to the administration. All drug testing original data from any reputable health facility must be presented to the administration as proof of positive or negative testing before the student will be readmitted to school. If the retest is not completed on the same day as the school's drug and alcohol test and if the results are not provided within one (1) school day due process, procedures for suspension pending expulsion may be initiated by the administration.

Positive test results from a reputable health facility may be used by the school's administration to invoke the reasonable suspicion policy. Drug testing results are considered confidential by the Avon Community Schools' administrative staff, but may be discussed with a student's guidance counselor or other school employee if it is deemed necessary by the administration in order to provide assistance to the student and/or for the safety of other students.

Any student who attempts to alter a breath test or urine sample may be disciplined by the administration. The student who possesses the breath test or urine sample and/or the person(s) who attempt to alter the breath test or urine sample may be subject to suspension and/or a recommendation for expulsion.

If a student tests positive, disciplinary action will be taken. Disciplinary actions may include: participation in the school's student assistance program(s), drug and alcohol prevention activities, the First Offenders Program, suspension, or recommendation for expulsion. Students who test positive and participate in privileges granted by the school, such as parking or extra-curricular activities, are subject to restriction of those privileges as recommended by the administration and/or as outlined by any additional rules and regulations established by Avon Community Schools. These rules and regulations will have been established in writing, approved by the School Board, and distributed to the participant before a student will be held responsible.

Avon Schools reserve the right to test for alcohol with a breath test at any time before, during, and/or immediately after a school-sponsored activity or program rather than or in addition to urine testing.

RANDOM DRUG TESTING

The primary purpose of random drug testing is not intended to be disciplinary or punitive in nature, but rather is intended as an aid in disclosing possible substance abuse problems, and as an extension of

educational drug and alcohol programs. The goal of a Random Drug Testing Program is to identify a student with drug residues in his/her body, to provide notification to the custodial parent or guardian, and to educate, intervene, and direct students away from drug and alcohol abuse and toward a healthy, safe and drug-free adult life.

The implementation of random drug testing will not affect the policies, practices, or rights of the Avon Schools in dealing with drug and alcohol use where reasonable suspicion is obtained by means other than the random sampling provided within this program.

Each student of a school participating in random drug testing will be provided a consent form which must be signed by the student and the parent or guardian and returned to the administration before the student will be eligible to practice or participate in any extra-curricular activity, or to drive any vehicle on school grounds. By signing the consent form, the student agrees to provide, at any time requested by school administration, a urine sample to be tested for drugs and alcohol, and/or perform a breathalyzer test for alcohol. The parent/guardian also gives consent for the student to provide, at any time requested by the school administration, a breath test or urine sample by signing the consent form.

Consent forms will be attached to the drug testing guidelines/procedures as well as the athletic participation guidelines/procedures. The consent forms will be maintained in a secure location by the building's administration.

It is MANDATORY that each student who attends an Avon school who intends to participate in extra-curricular activities and/or drive to school, sign and return a consent form acknowledging participation in the random drug testing program. Students who are not mandated may submit consent forms to be a part of the Random Drug Testing program. Parents/Guardians may request that their child, who is not mandated to participate in random drug and alcohol testing, submit a consent form for participation in the Avon Random Drug and Alcohol Testing program.

All Avon students who are eligible to participate in any driver education programs that require approval by the Avon School Board will become participants in the random drug-testing program thirty (30) days before they would qualify to begin the driver education program, and if tested, must provide negative drug screening(s) prior to beginning and while participating in the driver education program, or they may not participate. This ensures the safety of the teacher and other students who will be in the vehicle during driver education. Such testing helps promote education in regard to impaired driving, and also helps safeguard the community at large.

Failure to comply at any time with rules and regulations of the random drug-testing program may result in exclusion from and/or revocation of parking permit privileges. If the student indicates that s/he intends to participate in extra-curricular activities and/or drive to, or from school activities, must agree to participate in the random drug-testing program established for Avon Community Schools.

COLLECTION PROCEDURES

The selection of students to be tested will be done randomly by the toxicology service working with the school's drug and alcohol testing program. Each student will be assigned a number. One (1) cross reference list of names and numbers will be maintained by the building administration, and will be accessible only to the building administrators or the school nurse. A verified system of random selection will be employed to determine which students will be selected at a particular time. Drug and alcohol testing shall be done at a competent laboratory through urinalysis.

Avon Schools will pay for drug and alcohol testing done on the school's dates established for random program testing, but is not liable for the costs of drug or alcohol testing/retesting, treatment, evaluation, or follow-up testing at any other time.

Avon Schools reserve the right to test for alcohol with a breath test at any time before, during, and/or immediately after a school-sponsored activity or program rather than or in addition to urine testing.

Upon being selected for testing, a student will be required to provide a sample of his/her urine in a verifiable manner. The collection of the sample will not be physically observed. Purses, handbags, knapsacks, coats, sweaters, boxers, etc. will not be allowed in the collection area. The temperature of the specimen will be checked and if abnormal a repeat specimen must be obtained at that time. If a student cannot provide a specimen s/he will be given approximately eight (8) ounces of water and be allowed two (2) hours to give a specimen. S/He will be observed and isolated from other students until a specimen is obtained. Medical studies have shown that persons given this amount of fluid and time should be able to supply a sufficient specimen. If the urine is diluted, or if the collector has doubts as to the legitimacy of the specimen for any reason, another specimen must be obtained in an acceptable manner before that student will be allowed to participate in any activity or drive on school property.

Any student, who attempts to alter a breath test or urine sample, will be disciplined by the administration. The student who possesses the breath test or urine sample and/or the person(s) who attempt to alter the breath test or urine sample may be subject to a needs assessment, as explained in a later section of these drug testing guidelines, the First Offender's Program, suspension and/or a recommendation for suspension pending expulsion.

The student's drug testing number and the date shall be written by the student on a sample bottle chosen by the student. The student and the collector or the collector's designee shall initial the cross-reference list in order to establish that the container has the proper identification written on it. The collector and/or designee shall then be responsible for turning the sample over to the testing laboratory, using the laboratory's chain of custody procedure.

Each sample will be tested for alcohol and street drugs (which may include any and all drugs listed as controlled substances under the laws of the State of Indiana). The school system reserves the right to test for performance enhancing drugs such as steroids or for nicotine if deemed necessary by the administration.

A student, who is taking any prescription or over the counter medication which may contribute to a positive drug test result, shall inform the collector or designee of this fact at the time that the specimen is requested. This information may require confirmation from the parent/guardian or a physician if requested by the administration.

The laboratory shall report the results of all testing, identified by number, to the building administration. Using the cross-reference list, the students with positive tests shall be identified. A student who tests negative will continue to be allowed to participate in all school activities and have full driving privileges.

If a student tests positive in the random testing program, an administrator will contact the student and his/her parents/guardians.

NEEDS ASSESSMENT AND INTERVENTIONS

A needs-assessment will be done to develop a rehabilitative plan for any student producing a positive drug test. Needs-assessment participants will include at least: administration, guidance, student, and parent/guardian. All costs for any rehabilitation outside of the school system will be incurred by the parents/guardians. These costs include but are not limited to counseling services, psychiatric services, and/or admission to a hospital program. If requested the guidance department may make information available to the student and parents/guardian about programs and services available in the Avon and surrounding communities.

The needs-assessment session must be completed within three (3) school days of the student's positive drug test. In the case of athletics, the athletic administrator may notify the head coach if given approval by a principal. Similarly, sponsors of extra-curricular activities may be notified at the discretion of a principal, but only when appropriate to secure the safety of other students or faculty members. The fact of testing and the results shall not be made known to any other school official.

If a student has a second drug violation, after having participated in the First Offender's Program or during reasonable-suspicion drug testing, or random or follow-up drug testing, privileges may be restricted by the administration as outlined in any additional rules and regulations established by Avon Schools in which the participant is engaged. During any periods of ineligibility, the student will be required to continue participating in the random testing program as well as to participate in assigned student assistance programs as determined through the needs-assessment session in order to determine the student's ability to maintain a drug-free lifestyle.

A student's refusal to submit to random drug testing on a random drug testing day will result in the administration's taking appropriate disciplinary action as if the test were positive. If a parent or guardian refuses to allow the random test to be administered on a testing day, disciplinary action will be taken as if the test were positive.

Participation may resume no earlier than thirty (30) school days after the refusal to participate in the random drug test and then only after (a) the student provides written confirmation of a negative drug test done by a reputable laboratory, and (b) the parent/guardian requests to the principal that the student be allowed a participant in the Avon Random Drug and Alcohol Testing program.

The request for reinstatement may not be submitted to the administration less than thirty (30) school days after the refusal to submit to random drug testing. The request will be reviewed by the administration within three (3) school days of submission. If approved, another random drug test may be conducted during the next random testing day. If at that time, the student produces a negative drug test, s/he may resume participation in privileged activities.

A student who refuses a second random drug and alcohol test on a day his/her participation is required, will be prohibited from participating in privileged activities for one (1) year from the date of the second refusal. Reinstatement will require submission of written consent to participate in random drug testing.

If a student has a third drug violation, the student will be prohibited (career ban) from participating in all privileged activities for the remainder of his/her tenure in Avon Schools. After two (2) calendar years of drug free activity, the student may request a review of his/her case by a committee composed of all building administrators, the student's guidance counselor, and the school nurse. The student will be expected to present just cause for reinstatement. A decision by the committee to reinstate must be unanimous. Students who are reinstated may be required by the building administrator to submit to testing for drugs and alcohol on a regular basis, at the student's expense. If at any time a subsequent positive test results, the student will be banned from all privileged activities for the remainder of their school career with no right of appeal.

A student may violate the Avon School's drug testing program outside of school by being arrested for involvement with illegal substances or by having police reports filed indicating the student was/has been/is involved with illegal substances. In such instances, privileges will be revoked. The student will be tested on the next random drug test date to establish baseline levels. If the student tests negative, s/he will be considered to have a clean drug test and may resume extra-curricular activities and drive on school grounds. However, if the student tests positive, s/he will still be considered to have one (1) violation and will be subject to the drug testing program's guidelines and procedures. The levels obtained

during this positive test will be considered a baseline level. Future drug tests must show a decrease in those levels. The student will not receive additional penalties unless the levels increase. If the levels increase during any future testing, that test will be considered a second violation.

I.C. 20-26-3

I.C. 20-26-5-4

I.C. 20-30-15-6

Linke v. Northwestern School Corporation (763 N.E. 2nd 972)