

No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC First Reading of Policy FNF (LOCAL) - Student Rights and Responsibilities : Interrogations and Searches

SUBMITTED BY: Gloria S. Rendon **OF:** Asst. to the Superintendent

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: March 25, 2009

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees approve First Reading of Policy FNG (LOCAL) – Student Rights and Responsibilities – Student and Parent Complaints/Grievances

RATIONALE:

BUDGETARY INFORMATION

BOARD POLICY REFERENCE AND COMPLIANCE:

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INTERROGATIONS

BY SCHOOL
OFFICIALS

Administrators, teachers, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

BY POLICE OR
OTHER
AUTHORITIES

For provisions pertaining to student questioning by law enforcement officials or other lawful authorities, see GRA(LOCAL).

LOCKERS AND
VEHICLES

Students have full responsibility for the security of their lockers, and for vehicles parked on school property. It is the student's responsibility to ensure that lockers and vehicles are locked and that the keys and combinations are not given to others. Students shall not place, keep, or maintain any article or material that is forbidden by District policy in lockers or in vehicles parked on school property.

School officials may search lockers, or vehicles parked on school property, if there is reasonable cause to believe that they contain articles or materials prohibited by District policy. Students shall be responsible for any prohibited items found in their lockers or in vehicles parked on school property.

If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle. If the student refuses, the District shall contact the student's parents. If the parents also refuse to permit a search of the vehicle, the District may turn the matter over to local law enforcement officials.

USE OF METAL
DETECTORS

The District shall not tolerate actions that endanger the well-being of students or faculty or disrupt the educational process. Accordingly, stationary or hand-held metal detectors may be used at any time by the administration as a safeguard to students and to maintain a safe environment.

Students shall be subject to search by a metal detector on a random basis or if there is an individualized reasonable suspicion that the student possesses a prohibited weapon. All prohibited weapons or other devices that are located shall be confiscated and turned over to applicable law enforcement agencies, who shall determine whether or not to initiate criminal prosecution.

Scanning devices shall be operated by authorized District personnel or school resource officers. Any District employee may, within the scope of the employee's duties, use and apply physical restraint to a student if the employee reasonably believes restraint is necessary in order to obtain possession of a weapon or other dangerous prohibited object.

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| ANNUAL NOTIFICATION | Students shall be notified at the beginning of each school year that they may be subject to search by a metal detector on a random or regular basis or on the basis of an individualized reasonable suspicion that the student possesses a prohibited weapon. |
| DISCIPLINARY ACTION | If a weapon is found, the student shall be subject to appropriate disciplinary action in accordance with the Student Code of Conduct. |
| USE OF TRAINED DOGS | <p>The District shall use specially trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illicit substances defined in FNCF(LEGAL), and alcohol. This program is implemented in response to drug- and alcohol-related problems in District schools, with the objective of maintaining a safe school environment conducive to education.</p> <p>Such visits to schools shall be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on school property. The dogs shall not be used with students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials. Searches of vehicles shall be conducted as described above.</p> |
| NOTICE | <p>At the beginning of the school year, the District shall inform students of the District's policy on searches, as outlined above, and shall specifically notify students that:</p> <ol style="list-style-type: none">1. Lockers may be sniffed by trained dogs at any time.2. Vehicles parked on school property may be sniffed by trained dogs at any time.3. Classrooms and other common areas may be sniffed by trained dogs at any time when students are not present.4. If contraband of any kind is found, the possessing student shall be subject to appropriate disciplinary action in accordance with the Student Code of Conduct. |
| PARENT NOTIFICATION | The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker, in a student's vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy. |
| STUDENT RANDOM DRUG TESTING PROGRAM RATIONALE | The District has determined that the use of illegal drugs and alcohol among students in grades 7–12 is a problem of increasing proportions. Disciplinary incidents and information gathered from students and other reliable sources within the schools and community indicate that such use is prevalent within this segment of the stu- |

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dent population. The District has attempted other, less intrusive methods than drug and alcohol testing to prevent and deter drug and alcohol use, but these methods have been shown to be mostly ineffective. Consequently, based on the disciplinary incidents involving drugs or alcohol, the information gathered on the prevalent use of illegal drugs and alcohol by students, the failure of other methods to prevent and deter drug and alcohol use, the threat to student health and safety, and the District's continued desire to prevent and deter drug use among its students, the District has determined that a random testing program should be implemented. ~~for the 2004-05 school year.~~ Continuation of the program after the ~~2004-05 school year~~ **implementation** shall be determined by the Board after consideration of the effectiveness of the program, including but not limited to achievement of objectives; reliability of testing; input from students, faculty, and parents; and the costs involved.

OBJECTIVES

The drug testing program shall not be designed as a punitive measure with the intent of identifying and criminally or academically punishing those who may use illegal drugs and alcohol. Rather, the following objectives shall serve as the basis for implementing the program:

1. To prevent and deter the use of illegal drugs and/or alcohol among the student body.
2. To offer students a credible means for resisting peer pressure as it relates to the use of illegal drugs and/or alcohol.
3. To protect the health and safety of students.
4. To provide a ready resource for support and assistance to any student who may be using illegal drugs and/or alcohol.

APPLICABILITY

The random drug testing program shall apply to all District students (~~"participants"~~) in grades 7-12 **who may choose to participate in a competitive extracurricular activity.** ~~as a condition of participation in a competitive extracurricular activity. For purposes of this policy,~~ "Competitive extracurricular activity" shall mean **a student extracurricular activity** ~~an activity that:~~

1. **which** is sanctioned by the ~~UIL;~~ **or Texas University Interscholastic League** **or;**
2. **which** otherwise has its own rules and requirements for participating students ~~that~~ **which** do not apply to the student body as a whole, has a faculty sponsor or coach monitoring the students for compliance with various rules dictated by the clubs and activities, and, in relation to competition with other

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schools or districts, involves occasional off-campus travel and communal undress.

VOLUNTARY
PARTICIPATION

Any student in grades 7–12 to whom the random drug testing program does not apply, as specified above, shall be allowed to participate voluntarily in the program.

STUDENT CODE OF
CONDUCT

The random drug testing program is **not** intended to abridge or interfere with the application of the Student Code of Conduct (SCOC). However, the consequences set forth in the SCOC for the possession, use, selling, delivering, giving, or being under the influence of illegal drugs or alcohol shall not be invoked on the basis of a positive test result under this program.

STUDENT AND
PARENT CONSENT

Before a student may be allowed to ~~become a participant~~ **participate in any competitive extracurricular activity**, the student and the parent and/or ~~person having lawful control of the student (“parent”)~~ **legal guardian** must consent in writing to the testing. ~~Refusal to submit written consent to testing shall render the student ineligible for participation.~~ **This requirement shall also apply to a student who chooses to participate in the program on a voluntary basis.**

TESTING
REQUIREMENTS

All students in grades 7-12 who participate in a competitive extracurricular activity or who may choose to participate voluntarily in the student drug-testing program shall be subject to random testing.

TESTING
PROCEDURES AND
PROTOCOL

The District shall contract for drug-screening services through an independent laboratory that has met all standards for certification as established by the Substance Abuse and Mental Health Services Administration (SAMHSA), and all testing shall be conducted by qualified laboratory personnel and/or District designee in accordance with accepted practices and procedures as may be established by the contracted laboratory. Testing shall be accomplished by urinalysis using accepted immunological screening procedures **and** chain of custody documentation shall be maintained throughout the collection and testing processes.

Specimen samples shall be collected under conditions that are not more intrusive to students than the conditions experienced in a public restroom. The Superintendent, with the cooperation of the testing laboratory, shall develop ~~procedures~~ **regulations** for the collection and testing of specimens. The ~~procedures~~ **regulations** shall be approved by the Board.

The laboratory providing drug screening services shall also provide the services of a medical review officer (MRO) who is certified by

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the Medical Review Officer Certification Council or by the American Association of Medical Review Officers as having proven by examination to have the appropriate medical training to properly interpret and evaluate the results of any drug testing authorized by the District. The MRO shall agree to abide by the procedures established by the District for the evaluation and timely reporting of any positive **drug tests. results.**

In the event of a positive test result, the MRO or an authorized representative shall attempt to contact the parent **or legal guardian** within one school day of having received the result.

Should the MRO be unsuccessful in initial attempts to contact the parent **or legal guardian** within the time specified, the District shall provide assistance in locating the parent **or legal guardian**. Such contact ~~shall be for the sole purpose~~ **should only be assumed to be for the purpose** of responding to routine questions associated with the follow-up of a positive test result and inquiring ~~about~~ **on** any medication ingested by the student.

Verification of the positive result shall be done by a second test of the original specimen. Upon verification ~~of a positive test result by a second positive test~~, the MRO or **an authorized** representative shall report the result to the Superintendent or designee within one school day after ~~contacting~~ **confirmation with the parent or legal guardian.**

CONFIDENTIALITY

The collection and coding of specimen samples shall be executed in a manner ~~that~~ **to** ensures proper identification and confidentiality. Test results shall be reported to the Superintendent or designee, the ~~participant~~ **student**, and the parent **or legal guardian**. Other District personnel shall be notified only on a need-to-know basis.

Test results shall be kept in confidential files separate from the student's other education records. Such files shall be released or disclosed to District personnel only on a need-to-know basis as determined by the Superintendent or designee.

Test results shall be released to persons outside the District only upon written request of a parent **or legal guardian** of ~~a participant~~ **the student, to the student** who is 18 years of age or older, or as required by law or court order. Test results and files related to drug testing and consequences shall be destroyed when the participant is no longer of school age or as otherwise permitted by applicable law.

The contracted laboratory and MRO shall be prohibited from disclosing or releasing any information relating to the testing or results unless **otherwise** specifically permitted herein. The contracted

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laboratory and MRO shall be prohibited from releasing any information, including statistical information, relating to the testing without the express written consent of the District.

The contracted laboratory and/or MRO shall, however, provide the Superintendent or designee with a report, at least quarterly, that **which shall** includes the number of tests performed during the specified period, the rate of both positive and negative results, and a list of the substances identified from any positive specimens **results**.

SCREENING
PARAMETERS

For the purposes of this policy, the term "drugs" shall be defined as any substance **defined as** prohibited by either federal or Texas law **for use or for use by students**, including but not limited to the following:

1. Amphetamines/methamphetamines (e.g., speed, uppers, diet pills)
2. Barbiturates (e.g., downers, sleeping pills)
3. Benzodiazepines (Rohypnol)
4. Cannabinoid (marijuana)
5. Cocaine metabolite
6. Ethanol (alcohol)
7. Ecstasy
8. Methadone
9. Opiates (heroin, morphine, codeine)
10. Phencyclidine (e.g., PCP, angel dust)
11. Propoxyphene (~~Darvon~~ **Oxycodone**)
12. Steroids

FAILURE OR
REFUSAL TO
**SUBMIT TO DRUG
TESTING**

~~A participant~~ **Any student who may be** identified for random testing **but who may, because of illness or any other legitame reason**, leaves school during the day the test is performed ~~because of illness or any other legitimate reason~~ shall be included in the next random screening. Refusal by a ~~participant~~ **student participating in the program** to ~~provide~~ **submit** a specimen in accordance with collection and testing protocol, or intentionally ~~submission of~~ **submitting** a specimen not in accordance with collection and testing protocol, shall be considered to have a positive test result.

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STUDENT
SUPPORT
SERVICES

The District shall support and assist any student who may be required to participate in a substance abuse education and/or counseling program with identification of and referral to reputable social service agencies, as may be appropriate. The District shall provide students a list of free drug counseling services in the area. Any cost of such services, however, shall be the responsibility of the participant and/or parent **or legal guardian** unless the participant is "educationally disadvantaged" as defined by the ~~Education~~ **Tex. Educ. Code section 5.001**. The District shall provide, or otherwise arrange, appropriate substance abuse education and/or counseling to such **educationally disadvantaged** students.

RETESTING

~~Within 48 hours of receiving a second confirming test result, a participant or parent or legal guardian may request a third test of the specimen by a laboratory mutually agreed upon by the District and the participant or parent or legal guardian. All fees related to the third test shall be the responsibility of the participant or parent or legal guardian unless the participant is educationally disadvantaged as defined by the Education Code; the District shall pay the fee in such cases.~~

APPEALS

Should a student and/or parent or legal guardian elect to appeal a positive test result, a second test of the specimen in question may be requested by the student and/or parent or legal guardian within 48 hours to be conducted by a laboratory mutually agreed upon by the District and the student and/or the parent or legal guardian. In such event, the student and/or the student's parents or legal guardian shall assume responsibility for payment of all fees related to the second test unless the student is "educationally disadvantaged" as defined by Tex. Educ. Code section 5.001. The District shall pay the fees related to the second test for educational disadvantaged students.

A student and/or parent or legal guardian may appeal a decision made under this policy by filing a written complaint in accordance with policy FNG. Such complaint shall commence at the Superintendent's level, and any suspension imposed on the student must be followed until the appeal process is completed.

CONSEQUENCES

Consequences for positive test results shall be cumulative throughout the extracurricular career of the student **while enrolled in the District.**

FIRST POSITIVE
TEST RESULT

~~The first positive test result shall require:~~ **For a first positive test result the following consequences shall be imposed:**

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1. Notification: The ~~participant~~ **student, parent or legal guardian** shall be promptly notified of the test result, and a conference shall be scheduled to discuss the test results.
2. ~~Conference~~ **Conferecing**: A ~~conference with the participant,~~ **The student and parent or legal guardian, shall conference with the** principal or designee, and ~~any coaches or the activity sponsors and a UISD Licensed Chemical Dependency Counselor as may be deemed necessary shall be held~~ to discuss the conditions for continued participation in extra-curricular activities.
3. Counseling: The student shall be required to participate in an appropriate substance abuse/counseling program **developed in the conference session** and present proof of participation and/or completion.
4. Additional testing: The student shall be required to submit to testing on the next three random testing dates.

SECOND
POSITIVE TEST
RESULT

~~The second positive test result shall require:~~ **For a second positive test result, the following consequences shall be imposed:**

1. Notification: The ~~participant~~ **student, or parent or legal guardian** shall be promptly notified of the test result, and a conference shall be scheduled to discuss the test results.
2. ~~Conference~~ **Conferecing**: A ~~conference shall be held with the participant, parent or legal guardian,~~ **The student and parent or legal guardian shall conference with the** principal or designee, and ~~any coaches or the activity sponsors and a UISD Licensed Chemical Dependency Counselor as may be deemed necessary to discuss the conditions for participation and full reinstatement in extracurricular activities~~ continued participation in extracurricular activities.
3. Counseling: The student shall be required to participate in an appropriate substance abuse/counseling program **developed in the conference session** and present proof of participation and/or completion.
4. Suspension: The student shall be suspended from all extra-curricular performances and competitions for a period of not less than **thirty (30) days** from the date of the second positive test result; however, the student may attend all regularly scheduled practices and meetings.
5. Additional testing: The student shall be required to submit to testing on the next six **(6) testing dates from the date of the second positive test result.** ~~random testing dates.~~

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THIRD POSITIVE
TEST RESULT

~~The third positive test result shall require:~~ **For a third positive test result, the following consequences shall be imposed:**

1. Notification: The **student**, ~~or parent~~ **or legal guardian** shall be promptly notified of the test result and a conference shall be scheduled to discuss the test results.
2. ~~Conference~~ **Conferencing**: ~~A conference shall be held with the participant, parent or legal guardian,~~ **The student and parent or legal guardian shall conference with the** principal or designee, ~~and any coaches or the activity sponsors~~ **and a UISD Licensed Chemical Dependency Counselor** as may be deemed necessary to discuss the conditions for participation and full reinstatement in extracurricular activities.
3. Counseling: The student shall be required to participate in an appropriate substance abuse/counseling program **developed in the conference session** and present proof of participation and/or completion.
4. Suspension: The student shall be suspended from all extracurricular activities for a period of one calendar year from the date of the third positive test result.
5. Additional testing: The student shall be required to submit to testing on all random testing dates for the remainder of the participants **students' attendance in the District while participating in competitive** extracurricular career in the District activities.

FOURTH
POSITIVE TEST
RESULT

~~The fourth positive test result shall require:~~ **For a fourth positive test result, the following consequences shall be imposed:**

1. Notification: The **student**, ~~or parent~~ **or legal guardian** shall be promptly notified of the test result and a conference shall be scheduled to discuss the test results.
2. ~~Conference~~ **Conferencing**: ~~A conference shall be held with the participant, parent or legal guardian,~~ **The student and parent or legal guardian shall conference with the** principal or designee, ~~and any coaches or the activity sponsors~~ **and a UISD Licensed Chemical Dependency Counselor** as may be deemed necessary to discuss the conditions for reinstatement in extracurricular activities. **to discuss appropriate substance abuse and counseling services for the student.**
3. **Counseling: The student shall be required to participate in an appropriate substance abuse/ counseling program.**

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4. **Suspension:** The student shall be suspended from all **competitive** extracurricular activities for the remainder of his/her or her enrollment **attendance** in the District.
5. ~~Additional testing:~~ The student shall be required to submit to testing on all random testing dates for the remainder of the participants ~~extracurricular career in the District.~~ **Suspension:** For purposes of this policy, a suspension shall require, unless otherwise provided herein, that the student forfeit, for the period of time specified, participation in all extracurricular activities. Any suspension which may not be completed during the course of the school year shall extend into the following school year.
6. **Reinstatement:** A student suspended from all competitive extracurricular activities after a fourth positive test result, may petition, after one calendar year from the date of suspension, the Superintendent for consideration of reinstatement. Reinstatement shall be contingent on substantiated rehabilitation and other conditions deemed appropriate.

~~After one calendar year of suspension from the date of suspension, a participant may petition the Superintendent for consideration of reinstatement. Reinstatement shall be contingent on substantiated rehabilitation and other conditions deemed appropriate.~~

APPEALS

~~A participant and/or parent or legal guardian may appeal a decision made under this policy by filing a written complaint in accordance with FNF(LOCAL), beginning at Level Two. The consequences of a positive test result shall remain in force in the interim.~~