
A BILL FOR AN ACT

RELATING TO VOLUNTARY DRUG TESTING IN SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART

5 §302A-A Drug testing policy; adoption. (a) No school
6 may require or request a student to submit to testing of any
7 sample of a pupil's urine, hair, or other bodily tissue or fluid
8 to determine drug or alcohol use, except as provided by this
9 part. A school may adopt a drug and alcohol testing policy
10 consistent with this part. Drug and alcohol testing is
11 permitted only upon a reasonable suspicion of the unlawful use
12 of a controlled substance or alcohol.

13 (b) A school that adopts a drug and alcohol testing policy
14 shall provide at least 90 calendar days written notice of the
15 policy to the parent or legal guardian of a student enrolled in
16 the school.

17 (c) Reasonable suspicion may not be based upon any of the
18 following factors:



- 1 (1) Race;
- 2 (2) National origin;
- 3 (3) Gender;
- 4 (4) Socioeconomic status;
- 5 (5) Suspicion or evidence of drug or alcohol use
- 6 among the student's family members or peer group;
- 7 (6) Sexual orientation;
- 8 (7) Disability or medical condition; or
- 9 (8) Religion.

10 **§302A-B Confidentiality.** (a) Test results shall be
11 treated as confidential medical records and shall only be
12 accessible to the following individuals:

- 13 (1) The student subject to the testing;
- 14 (2) The parent or legal guardian of the student;
- 15 (3) The principal or his or her designee who is
- 16 directly responsible for school discipline and safety;
- 17 (4) Appropriate school staff and certified or
- 18 licensed health care professionals employed by or
- 19 working with a school, including physicians,
- 20 registered nurses, advance nurse practitioners,
- 21 counselors, and substance abuse professionals, for
- 22 whom the information is necessary to facilitate an



1 individualized course of action for the pupil that
2 addresses the unlawful use of drugs or alcohol and
3 supports academic success;

4 (5) The superintendent of education; or

5 (6) Appropriate law enforcement authorities.

6 **§302A-C Referral; treatment.** A school should seek to
7 ensure that any pupil who tests positive for the unlawful use of
8 a controlled substance or alcohol is referred to a school
9 counselor, a substance abuse professional, or other appropriate
10 school staff for the purpose of developing an individualized
11 course of treatment that addresses the unlawful use of drugs or
12 alcohol and supports scholastic success.

13 **§302A-D Discipline.** Nothing in this part shall be
14 construed to limit the ability of a school or the department to
15 discipline a student.

16 **§302A-E Policy; criteria for implementation.** (a) A
17 school may adopt a policy to randomly test students for drug or
18 alcohol use only if all of the following conditions are met:

19 (1) The board of education votes in favor of the
20 policy at a noticed public hearing where the votes of
21 the board members are recorded;



1 (2) The school proposing the policy presents written
2 justifications to the board of education for adoption
3 of the policy;

4 (3) The program is voluntary for both parents and
5 students, with prior written consent of the student,
6 and the student's parent or legal guardian if the
7 student is under the age of eighteen, necessary for
8 participation;

9 (4) The consent to random testing is not a condition
10 for participation in school or extracurricular
11 activities;

12 (5) A school employee or a department employee does
13 not participate in collecting or analyzing urine,
14 hair, or other bodily tissue or fluid of a student;

15 (6) A student participating in the testing program is
16 selected at random from a pool of volunteer candidates
17 by an independent drug and alcohol testing company or
18 agency that is certified by the Drug and Alcohol
19 Testing Industry Association;

20 (7) Test results are maintained private and
21 confidential subject to §302A-B;



1 (8) Random testing programs are funded exclusively
2 from the following sources:

3 (A) Direct payments of fees from parents, legal
4 guardians, or students to the testing
5 company duly authorized by a school to
6 conduct its random testing program;

7 (B) Fees collected by a school or the department
8 from parents, legal guardians, or students
9 to support noncurricular programs or
10 activities;

11 (C) Federal grants expressly intended to fund
12 random drug and alcohol testing programs;
13 and

14 (D) Grants from private, nongovernmental
15 entities expressly intended to fund random
16 drug and alcohol testing programs.

17 (9) The drug and alcohol testing company or agency
18 does not use private or personal information gathered
19 from students to promote or otherwise encourage the
20 purchase of additional services. Personal information
21 obtained directly or indirectly from activities on
22 school district property shall not be provided to any



1 other entity, business, or subsidiary not directly
2 involved in processing the test. That personal
3 information includes, but is not limited to, names,
4 physical addresses, cellular and landline telephone
5 numbers, and e-mail addresses; and

6 (10) The school notifies the superintendent of
7 education of its implementation of its voluntary drug
8 and alcohol testing program.

9 **§302A-F Definitions.** For purposes of this part:

10 "Appropriate law enforcement authorities" means the police
11 departments of the respective counties, the Attorney General, or
12 the U.S. Attorney.

13 "Controlled substance" means the same as defined in chapter
14 329-1.

15 "Reasonable suspicion" means articulable facts, together
16 with rational inferences from those facts, warranting an
17 objective suspicion that a student is unlawfully using or has
18 unlawfully used a controlled substance."

19 SECTION 2. The revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.

22 SECTION 3. This Act shall take effect upon its approval.



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INTRODUCED BY:

Barbara Maramba

Mark Moser

Spingarn

Collin Meyer

Ann V. Smith

John R. ...

Bob Stanbraker

Ch. H. I.

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HB 2006

Report Title:

Education; drug testing

Description:

Allows the department of education to implement a voluntary and confidential drug testing policy in public schools.

