

CHAPTER 209

AN ACT authorizing the adoption of substance abuse testing policies in public school districts and supplementing chapter 40A of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:40A-22 Findings, declarations relative to substance abuse testing policies in public school districts.

1. The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

C.18A:40A-23 Adoption of policy for random testing of certain students.

2. A board of education may adopt a policy, pursuant to rules and regulations adopted by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S.2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

C.18A:40A-24 Public hearing prior to adoption of drug testing policy.

3. Each board of education shall hold a public hearing prior to the adoption of its drug testing policy. The policy shall be in written form and shall be distributed to students and their parents or guardians at the beginning of each school year. The policy shall include, but need not be limited to, the following:

- a. notice that the consent of the student and his parent or guardian for random student drug testing is required for the student to participate in extracurricular activities and to possess a school parking permit;
- b. the procedures for collecting and testing specimens;
- c. the manner in which students shall be randomly selected for drug testing;
- d. the procedures for a student or his parent or guardian to challenge a positive test result;
- e. the standards for ensuring the confidentiality of test results;
- f. the specific disciplinary action to be imposed upon a student who tests positive for drug use or refuses to consent to testing;
- g. the guidelines for the referral of a student who tests positive for drug use to drug counseling or rehabilitative treatment; and
- h. the scope of authorized disclosure of test results

C.18A:40A-25 Rules, regulations.

4. The State Board of Education, in consultation with the Department of Human Services, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

5. This act shall take effect immediately.

Approved August 29, 2005.