

# An objection to mandatory drug testing in high sch



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ools for the Participation of Extra-Curricular Activities:

Primarily Student Athletes

For

LA: 401: Science, Technology, and Human Values

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Introduction

With the recent steroid a scandal in Major League Baseball, debates over mandatory drug testing polices have sparked interest across the country. One issue that is highly controversial, but has taken a back seat in the in the debate, is the issue of mandatory drug testing policies in high schools. With teenage drug use on the rise in the 90s the federal government and the United States Supreme Court gave the green light to mandatory drug testing policies for student athletes and participants of extra-curricular activities. In this paper I hope to prove that mandatory drug testing of student athletes and participants of extra-curricular at the high school level is a well-meaning but wrong-headed approach to teen drug prevention.

Although mandatory drug testing is necessary at the collegiate and professional levels of competition in order to ensure a level playing field among athletes, to preserve the credibility and integrity of the particular sport, and to prevent and protect athletes from drug abuse, mandatory drug testing should be removed at the high school level because mandatory drug testing can have a negative effect on the classroom or team, is a waste of

valuable school financial resources, may be a potential barrier to joining extra-curricular activities because drug testing is typically aimed at students who want to participate in those activities, drug tests being used by high schools have been known to give false positives, which could punish innocent students, and may cause several unintended consequences such as: students turning to more dangerous drugs that are not detectable by the tests currently being used, students out smarting the tests, and students learning that they are assumed guilty until they are proven innocent.

### Definitions

Anabolic steroids are, synthetic substances related to male sex hormones (androgens). They promote growth of skeletal muscle (anabolic effect) and the development of male sexual characteristics (androgenic effects). Users of anabolic steroids run the risk of stunted bone growth, permanent damage to the heart, liver, kidneys, and a known seventy other major physical and psychological side effects. Currently, anabolic steroids are only legal in the United States by doctor prescription. Doctors use these steroids to treat patients who have developed certain conditions that force the body to produce low amounts of testosterone, such as delay puberty and some types of impotence, and also to treat body wasting in patients with AIDS and other diseases. Finally, anabolic steroids are different from steroidal supplements sold over the counter in the United States, such as dehydroepiandrosterone (DHEA) and androstenedione (known as Andro). Users buy these supplements through commercial sources including health food stores, because they believe the supplements have anabolic effects. This supplement was made popular during Mark McGwire's record setting home

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run season and the controversy surround his admittance of using the supplement.

Currently, there are three common drug-testing methods employed by the public school system, they include urinalysis test, hair follicle test, and the use of a sweat patch test. The urinalysis test is the most common test used in high schools, primarily because of its low cost per a test, usually ranging from \$10 to \$30 per test, however with the relative low cost comes several problems. The first is a urinalysis test cannot detect alcohol or tobacco uses, both are illegal at the high school age. Secondly, by using a urinalysis test a specimen has a possibility of being adulterated. Finally, the urinalysis test is the most invasive of all drug tests because someone must be present when the specimen is collected.

The second method of drug testing used by high schools is the hair follicle test. The hair follicle test is the most expensive test used by high schools at a cost of \$60 to \$75 per test. The test is limited to the five basic drug panel, which include marijuana, cocaine, opiate, amphetamines, and PCP. The test cannot detect alcohol use or recent drug use. Even though the hair follicle test is look at to be one of the more reliable drug tests, it does have its share problems. The test tends to be discriminatory: dark haired people are more likely to test positive than blondes, and African-Americans are more likely to test positive than Caucasians. In addition, exposure to drugs in the environment may lead to false positives, especially if those drugs are smoked.

Finally, the third method of drug testing used by high schools is the sweat patch test. The sweat patch test is also relatively cheap at \$20 to \$30 per test. The sweat patch test is able to detect the most drugs of out of the three tests, but the test is plagued with several problems. First, very few labs in this country are able to process the results, which causes an inconvenience to school districts. Secondly, passive exposure to drugs could result in false positives, due to contamination of the patch. Finally, any individual with excessive body hair, scrapes or cuts, and skin eruptions cannot wear the patch.

New drug testing techniques are being developed to be more accurate and less invasive. One of these new techniques is the saliva test. This test is said to be almost unbeatable because it uses a persons DNA. However, this test opens up new doors of controversy, because it looks deep into ones past creating privacy issues and could open the door for employers to genetically test for certain types of employees.

Monitoring the Future is an ongoing study conducted by the institute for Social Research at the University of Michigan, which surveys the behaviors, attitudes, and values of American secondary school students, college students, and young adults. The study first began in 1975, when about 50,000 12th graders were surveyed. In 1991, 8th and 10th graders were added to the survey. In addition to the survey, follow up questionnaires are mailed to a sample of each graduating class for a number of years after the initial survey.

History of the Issue

In order to understand the mandatory drug testing issue completely, it is essential that we examine the background and history of events contributing to the establishment of mandatory drug testing of student athletes and participants of extra-curricular activities in high schools. The testing of student athletes and extra-curricular participants did not begin just recently. However: until recently, the debate of drug testing effectiveness was minimal.

### Impact of the 60s

In the mid 1960s with the coming of age of the Baby Boom generation and counter-culture revolution brought narcotics into the mainstream of Americas culture. By the late 1960s middle-class youths and soldiers serving in Vietnam spurred on by popular music, had embraced certain drugs like marijuana, hallucinogens, and several others. In 1968, President Nixon was elected president on a law-and-order platform that emphasized a crack down on drug use. That same year mandatory drug testing was instituted by the military, because of a growing number of drug addicted Vietnam vets returning home.

### War on Drugs

In 1970, Congress passed the Comprehensive Drug Abuse Prevention and Control Act. This act significantly lessened penalties for possession of many drugs. A year later, President Nixon declared the first war on drugs. In 1975, the University of Michigans Institute of Social Research conducted the first of its series of Monitoring the Future studies on student drug use. In 1977, President Carter called for the decriminalization of marijuana, but later he

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drops the idea. In 1979, drug use peaks and an anti-drug movement began, led mostly by parents.

### Just Say No

The 1980s brought about many changes in the drug policy of the United States. The drug cocaine was gaining popularity, especially among young, white, urban, professionals. In 1982, President Reagan declared a second war on drugs. In July of 1985, an Arkansas court ruled that the excessive intrusive nature of drug testing student athletes without reasonable suspicion is not justified by its need. On June 19, 1986, University of Maryland basketball star Len Bias died of a cocaine overdose, his death prompted almost immediate change, when it came to drug testing.

A few months after Bias death, President Reagan and the first lady launched the national Just say no anti-drug campaign. President Reagan also issued Executive Order 12564, calling for a drug free workplace in all federal agencies. In addition, in a symbolic gesture he and his senior advisors provide urine samples to be tested for illegal drugs. Congress followed suit and passed into law the Drug Free Schools and Communities Act, which provide schools with funds to start anti-drug programs. The President signed the law on Oct. 27, 1986. States across the country also began to pass their own Drug Free School Zone laws. That same year, Bias death prompted the NCAA to approve mandatory drug testing for all its athletes.

The late 80s brought on a continued focus on illegal drug use. In 1988, President Bush established the White House Office of National Drug Control Policy. November 1988, Congress passed the Drug Free Work Place Act,

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which required all federal contractors or grant recipients to maintain drug free work places. This prompted many employers begin to set voluntary testing programs. This also leads to lawsuits brought by employees, claiming drug testing is a violation of individual privacy rights. The courts responded and allowed suspicion less drug testing. In 1989, President Bush unveils his National Drug Control Strategy, which encouraged drug for workplace policies in the private sector and in state and local government. That same year the Supreme Court upholds random drug testing when a special need outweighs individual privacy rights, in the National Treasury Employees Union v. Von Raab decision.

### Roller Coaster 90s

The 1990s began with teen drug at an all time low and the expansion of drug testing policies. President Bush expanded the federal drug-testing program to include all White House personnel. In 1991, Congress passes the Omnibus Transportation and Employment Testing Act, which mandated drug and alcohol testing to 8 million private-sector pilots, drivers, and equipment operators. In 1992, President Clinton is elected and drug use begins increasing. Some say the increase was due to the Persian Gulf War and the media, especially the recording industry, with messages of sex, drug, and rock-and-roll. One of President Clintons first acts in the White House was to expand on the drug testing policies of Presidents Reagan and Bush; he starts by authorizing mandatory drug testing in prisons.

In 1995, the United States Supreme Court gave the green light to mandatory drug testing of high school athletes. In the case of Veronia School District v.



Acton, the supreme court ruled that mandatory drug testing in high school athletics programs was not an unreasonable search or seizure, nor was the testing an invasion of the student athletes privacy. The Supreme Court ruled that suspicion less; random urinalysis drug testing of high school athletes was justified because the drug crisis in the school district had reached epidemic proportions. In the four and half years prior to the case, the Veronia school district had found only 12 positive drug tests. Ten years earlier the Supreme Court had struck down as unreasonable a New Jersey schools athlete drug testing program, in which 28 student athletes tested positive for drugs in a single year.

In the Veronia case Justice Antonin Scalia wrote the majority opinion; he was the same justice that wrote scornful dissent in the Von Raab decision. Justice Scalia argued that student athletes have less privacy rights than the general student body because they dress and shower in close proximity. Legitimate privacy expectations are even less with regard to student athletes. School sports are not for the bashful. They require suiting up before each practice or event, and showering and changing afterward. Public school locker rooms, the usual sites of these activities, are not notable for the privacy they afford. The locker rooms in Veronia are typical: no individual dressing rooms are provided; shower heads are lined up along the wall, unseparated by any sort of partition or curtain; not even all the toilet stalls have doors. Justice Scalia wrote. Justice Scalia went on to add that the increase of drug use by the student body was largely fueled by the role model effect of athletes drug use.

Current Situation

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In 2001, Congress allocated \$185 million to the Office of National Drug Control Policy for advertisements and campaign projects, in 2002 the administration only asked for \$180 million. On February 12 of 2002, President George W. Bush unveiled a \$19 billion anti-drug package that aimed to cut drug use in the United States by 10 percent in two years and by 25 percent in five years. Also, the DARE program would receive \$644 million, \$103 million less than it received in 2001. The decrease was due to the program in recent years being ineffective and wasteful. President Bush's plan also called for more emphasis on treatment and prevention, and federal grants for drug treatment would be increased by more than 6 percent, to \$3.8 billion for the fiscal year of 2003. Later that year the Supreme Court ruled on the landmark case of Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls.

In the case of the BOE v. Earls, the Supreme Court ruled that an Oklahoma school policy of randomly drug testing students who participate in competitive, non-athletic extra-curricular activities was in fact constitutional. In a 5-4 decision the court reversed a federal court ruling. Justice Clarence Thomas, writing for the majority said that the court found such a policy a reasonably effective means of addressing the school districts legitimate concerns in preventing, deterring, and detecting drug use. In the dissent, Justice Ruth Ginsburg said the testing program was capricious, even perverse, infringing on the rights of a student population least likely to be at risk from illicit drugs and their damaging effects.

Clarification of the Problem

Mandatory drug testing plays a vital role in protecting individuals and sports at both the collegiate and professional levels. Unfortunately, when mandatory drug testing is carried over to the high school level, several consequences arise. When teenage drug use began to rise in the mid 90s public school districts began to adopt mandatory drug testing policies, these policies have since been upheld as constitutional by the United States Supreme Court. However, research has shown that these policies are unsuccessful at deterring drug use among teenagers and may even hamper the process. The reason is simple mandatory drug testing policies at the high school level are aimed at the students who are at the least risk of abusing drugs the athletes and extra-curricular participants.

#### Arguments For Removal of Mandatory Drug Testing at the High School Level

It is extremely important for the government to remove mandatory drug testing in high schools for student athletes and extra-curricular participates. Research has shown that mandatory drug testing at the high school level is not effective for several reasons.

#### Negative Impact on the Classroom or Team

The first argument for the removal of mandatory drug testing at the high school level is that mandatory drug testing can have a negative effect on the classroom and on the team. Mandatory drug testing can undermine student-teacher relationships by pitting students against teachers, administrators, school nurses, and coaches who have to test them, because it erodes trust between the student and the tester and leaves the student feeling ashamed and resentful. Whether a school district buys drug test directly from a

manufacturer and administers the test themselves or has an independent source brought in to administer the tests, someone must be present as the student urinates to be sure the sample is their own. This collection process can be a humiliating violation of the students privacy, and can be especially embarrassing for adolescent.

Lack of student-teacher or student-coach trust created by drug testing also creates an unnecessarily tense school environment for students. In this type of environment students feel they cannot address their fears or concerns, both about the use of drugs and factors in their lives that could lead to drug use, including depression, peer pressure, and an unstable family life.

Essentially, youre creating a prison-like atmosphere where students filled with fear and mistrust of authority, says Dr. Gottfredson of the University of Maryland. Trust is also jeopardized when teachers, administrators, and coaches act as confidants in some circumstances and are forced to be police in others. Schools need to strive to create an environment where students feel welcomed, safe, and trusted.

#### Waste of Valuable School Financial Resources

The second argument for the removal of mandatory drug testing at the high school level is mandatory drug testing is a waste of valuable school financial resources. Currently, it costs the NCAA \$2. 9 million on testing its athletes annually, while Oklahoma State University spends between \$25, 000 and \$30, 000 to tests their athletes each year. These figures include the extra costs it takes for drug tests that are able to detect steroid use and are comparable to the figures it costs an average school district to test their

student athletes and extra-curricular participates with tests that cannot detect steroid use. Today, drug testing costs school districts an average of \$42 per student tested, which amounts to \$21, 000 for a school district testing 500 students. This figure is for the initial drug test alone.

Beyond the initial costs of drug testing, there are other long-term operational and administrative costs. The process of dealing with a positive test is often times fairly long and involved. A second test must be administered to rule out a false positive result. After the second test a treatment and follow up testing plan has to be in place. Other costs associated with student drug testing include: monitoring students urination for accurate samples, documenting, bookkeeping, compliance with confidentiality requirements, and tort or other insurance to protect a school district from potential lawsuits associated with their drug testing policy.

Sometimes costs for student drug testing far exceeds the benefits the tests produce. Over the past year the Oak Mountain school district in suburban Birmingham, Alabama conducted roughly between 2, 500-3, 000 tests on its 11, 000 middle and high school students, at a cost of \$65, 000. These tests in return netted fewer than 25 positive test results. Thats an average cost of \$2, 600 per a student caught. The same can be said for the school district of Dublin, Ohio. That school district netted only 11 students who tested positive, those results ended up costing the district \$35, 000 (Appendix A). The cost of drug testing can exceed the total a district spends on existing drug education, prevention, counseling programs, and could possible take scarce financial resources away from other departments. The growing costs

of mandatory drug testing of student athletes and extra-curricular participants can seriously undermine the original intent of the drug test.

### Potential Barrier to Joining Extra-Curricular Activities

The third argument for the removal of mandatory drug testing at the high school level is that mandatory drug testing may be a potential barrier to joining extra-curricular activities. Research has shown an increase in juvenile crime and adolescent drug use occurs during unsupervised hours between the end of classes and the parents returning from work, usually between 3 P. M. and 6 P. M. Research and studies have also proven that students who participate in extra-curricular activities, including athletics are less likely to develop substance abuse problems, less likely to engage in dangerous behaviors, and more likely to stay in school, earn higher grades, and achieve higher education goals. The reasons for these results are that extra-curricular activities usually fill the time between when school releases and when the parents return home in the evening and students are in contact with teachers, coaches, or peers that help identify and address problematic drug use.

Since the Supreme Court ruled in the cases of *Veronia v. Acton* and *BOE v. Earls*, many school districts who perform drug testing has seen a decrease in participation of students involved in extra-curricular activities. The reason is simple; student drug testing is usually aimed at student athletes and participates in extra-curricular activities, because drug testing an entire student body is considered unconstitutional by the Supreme Court. The other reason school districts are seeing a reduction in participation of extra-

curricular activities are concerns of the invasiveness of the tests and the violation of ones privacy.

The Tulia Independent School District in Texas is an example of a school district that has seen a reduction in participation of extra-curricular activities and a rise in lawsuits regarding privacy issues, since it began a drug-testing program. One female student explained: I know lots of kids who dont want to get into sports and stuff because they dont want to get drug tested. Thats one of the reasons Im not into any activity. Cause Im on medication, so I would always test positive, and then they would have to ask me about my medication, and I would be embarrassed. And what if Im on my period? I would be too embarrassed. In the Gardner v. Tulia Independent School District case, a Texas District Court ruled that the school drug testing policy violated students Fourth Amendment rights, but the policy was upheld because of the precedence set forth by the United States Supreme Court.

#### Results From False Positives

The forth argument for the removal of mandatory drug testing at the high school level is that results from false positives could punish innocent students. A positive drug test could be a possibly devastating accusation for an innocent student. Currently, the most widely used drug test by school districts is the urinalysis test, primarily because of its low cost per test. The problem with this test is it may falsely accuse students of being drug abusers, because the test has trouble distinguishing between drug metabolites that have closely similar structures. Some examples of potential problems are: over the counter decongestants may produce positive results

for amphetamines, codeine can produce a positive result for heroine, and the consumption of food products with poppy seeds can produce a positive result for opiates. Hair follicle tests have also come under scrutiny. There has been no formal study or research to prove any bias between hair and skin color and results of the test. However, there are no national standards for labs to follow when testing hair follicles, like urinalysis tests have. Without federal uniformed standards in testing hair follicles, there is no complete way to rule out false positive results.

In an effort to eliminate the chances of false positives, school districts often ask their students to identify their prescription medications before administering a drug test. This cause a couple of problems, it first compromises a students privacy rights, then it creates a burden for school districts to make sure a students private information is safely guarded. An example of this problem happened at Tecumseh High School in Oklahoma when it first enacted its drug-testing program. A choir teacher at the high school looked at students prescription drug lists and carelessly left the information on their desk, where other students could see it. Also, results of positive tests were handed out to 13 faculty members at a time.

Carelessness and the school environment, which is prone to leaks, can lead to the violation of students privacy rights and costly litigation.

### Unintended Consequences

The final argument for the removal of mandatory drug testing at the high school level is that mandatory drug testing of student athletes and extra-curricular participants can cause several unintended consequences. One of



these consequences is that students may turn to drugs that cannot be detected by tests currently be used by schools today. These drugs include Ecstasy, inhalants, or alcohol. These drugs in the long run could cause greater harm to the students and the community as a whole because they are not being detected by drug testing. Alcohol is a great example of this, because it is the most commonly abused drug by teenagers and commonly involved in teen drug related deaths.

Another unintended consequence of mandatory drug testing is students may try to outsmart the test. Students who may fear testing positive on a test may try to find methods or products to cheat the test. If a student were to perform a search on the Internet, they would find links to websites selling drug-free replacement urine, herbal detoxifiers, hair follicle shampoo, and other products all designed to help someone cheat current drug tests. An example of one of these web sites is [www.ureasample.com](http://www.ureasample.com), where a student can order drug-free urine and a kit to insert the urine into the body. In addition students may try to make a mockery of drug testing programs. In one school district in Louisiana, students facing a hair follicle test shaved all their head and body hair.

Finally, students learn that they are guilty until proven innocent. Under the United States Constitution, people are presumed innocent until proven guilty and they have a reasonable expectation of privacy. Mandatory drug testing takes both of these rights away from students. A student is assumed guilty until he or she can provide a clean urine sample. Hans York, a deputy sheriff Wahkiakum, Washington, sued his local school district after they tried to force his son to submit to a testing program before joining the drama club.

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York, believed that having his son monitored for normal sounds of urination was not only a violation of his privacy, but sent him a message that hes guilty until proven innocent. As a guy who puts on a gun everyday to go to work, I can tell you that a lot of the dialogue stops when you become the police.

#### Ethical ArgumentsKantian Ethics

The Kantian approach states that people should not be used as a means to an end and universal principles should be adopted to protect human freedom and reason.

#### Existentialism Approach

The existential approach begins with the notion that human values are ultimately a function of human freedom. Once restrictions of society are lifted, giving us freedom, are actions are deemed endorsement to ethical behavior.

#### Rawlsian Approach

The Rawlsian approach states that ethical decisions should be made behind the veil of Ignorance. A decision produced by all parties involved who ignore his or her current status and view the issue to the degree of what would be best for the weakest member of society.

#### Rule Utilitarianism Approach

The utilitarianism approach aims at producing the greatest happiness for the greatest number of people. A rule utilitarian would ask, for a specific ethical

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issue, Which general action-guiding rule has been shown by history to create the greatest happiness?

Also, by using the risk-cost-benefit-analysis, one would find the risks of litigation, from privacy issues and false positive test results, and the costs for the drug testing program; far outweigh the benefits a high school receives for testing its athletes or students involved in extra-curricular activities (Appendix A).

## Objections and Rebuttals

### Collegiate and Professional Levels

Some proponents of mandatory drug testing at the high school level would argue that sports at the collegiate and professional levels have mandatory drug testing policies in place, why shouldn't there be testing at the high school level. Currently, all NCAA Division I, II, and III student athletes are subject to mandatory drug testing by both the NCAA and by their schools. The testing program ensures a fair playing field, protects the credibility of the sport, and tracks student athletes in danger of using drugs. The testing program by the NCAA also has proven to be successful in decreasing the amount of drug abuse by collegiate athletes. A 2001 study conducted by the NCAA revealed that 17% of the athletes surveyed said the threat of failing a drug test discourage them from using banned substances. The survey also showed a decrease of steroid use to 3% among football players.

Most of the professional sport leagues in the United States have mandatory drug testing policies in place. The Olympics also tests all their athletes for

illegal substances before competition. Their policies are in place for the same reasons the NCAA has drug testing.

Collegiate and professional athletes should be subject to mandatory drug testing because they are both being paid to play. Collegiate athletes are on scholarships or receive preferred treatment (walk-ons) from their respective universities. These scholarships can cover tuition, housing, books, and possibly stipends for the athletes. Since the universities are providing compensation for the student athletes, then the student athletes should be subject to policies that a university has in place and are governed by.

Professional athletes like collegiate athletes are being paid to play, except they receive income for participating in competition. Since they are being paid to play, they should be subject to policies of their organization and their league. Also with the commercialization of sports in this country, these athletes are seen as role models in society and their actions can and sometimes do, dictate those of society.

#### Prevention and Protection

The second objection to the removal of mandatory drug testing at the high school level is that mandatory drug testing is necessary at the high school level to prevent and protect students and athletes from drug abuse. A recent survey showed that steroid use among teenagers has rapidly increased over the last few years. This increase is both shown in athletes looking to gain an edge over competition and students not involved in athletics, in attempts to appear more buff.

School districts have an obligation to protect the health and safety of their students. When it comes to protecting their students they do this in several ways and one being mandatory drug testing. Some school districts see mandatory drug testing as a deterrent to drug use. Robert Weiner, former spokesperson for the White House Office of National Drug Control Policy said, The majority of kids support drug testing because it gives them an excuse to say no to drugs. Drug testing also helps school districts to identify and help those students taking drugs. Other students say the fear of being caught by drug testing has deterred their use of drugs.

Current research has shown that education and drug awareness have a greater impact on preventing teen drug use than mandatory drug testing does. Mandatory drug testing is also a barrier to participation of extra-curricular activities which research has proven to be a deterrent to teen drug abuse. Students who might already be at risk of using drugs might be discouraged from joining extra-curricular activities that could have a good impact on their lives. Also students who are already engaged in extra-curricular activities may feel mistrusted and may set back the positive social development the student has undergone as a result of extra-curricular activities.

Finally, a recent study published in the Journal of School Health showed no evidence that schools engaged in mandatory drug testing were more effective in deterring drug use than those who didn't. This study was conducted by a team of Monitoring the Future researchers and surveyed stats from 75,000 students in more than 700 schools. Rates at the drug testing schools and school that didn't test were virtually identical (Appendix <https://assignbuster.com/an-objection-to-mandatory-drug-testing-in-high-sch/>

B). This test alone raises questions on whether mandatory drug testing in high schools is a wise investment.

### Level Playing Field

A third objection to the removal of mandatory drug testing at the high school level is that mandatory drug testing is necessary at the high school level to ensure a level playing field among athletes. The 2001 Monitoring the Future study, showed an increase of steroid use between the 8th and 12th grades. The trend also suggests that these adolescents perceive steroids as a harmless way of bulking up and are unaware of the long term health risks involved with steroid abuse. Steroid use is also seen a dramatic increase in the southern states. A 2001 survey conducted by the Centers for Disease Control and Prevention showed that 11.2% of high school boys in Louisiana and 5.7% of high school girls in Tennessee use steroids.

With the current trend of rising steroid users among adolescents, some student athletes want mandatory drug testing to ensure a level playing field. Ed Boos, supervisor of prevention, health, and wellness for the Polk County School District in Florida, said he has heard from student athletes that support steroid testing because of the unfair advantage of performance enhancing drugs give to those who use them.

To date only a handful school districts perform tests that can detect the use of steroids. One school district that does is the wealthy Paradise Valley School District in Phoenix, Arizona. They randomly administer \$50 urinalysis tests to students participating in everything from football to badminton. Most of the tests conducted by other school districts only test for the five basic

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drugs. The reason why school districts do not test for steroids is the costs per test. A reliable steroid test can cost between \$50 and \$100 and that is for the test alone, it does not include the collecting and handling of the test. Few schools are willing to spend that kind of money on extra tests.

### Supreme Court

A fourth objection to the removal of mandatory drug testing at the high school level is mandatory drug testing of athletes and extra-curricular participants at the high school level was ruled to be constitutional by the United States Supreme Court. In the 1995 ruling in the *Veronia v. Acton* case and the 2002 ruling in the *Pottawatomie v. Earls* case the Supreme Court established precedent for the testing of student athletes and extra-curricular participants at the high school level.

In the *Veronia v. Acton* and *Pottawatomie v. Earls* the Supreme Court ruled it was constitutional to test student athletes and participants in extra-curricular activities. However, the court did not say that schools are required to test those involved in competitive extracurricular activities, drug testing of the entire student body or groups outside of competitive extra-curricular activities was constitutional, it is constitutional to drug test elementary students, it is constitutional to test by means other than urinalysis, and schools are protected from lawsuits under their respective state law.

When the Supreme Court made its rulings they were interpreting federal law, however school districts are also subject to state law, which may provide greater protection for student privacy rights. Privacy laws vary greatly from state to state and in many states the law has yet to be well defined.

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In several states including: Arkansas, Indiana, Maryland, Michigan, Ohio, Oklahoma, Oregon, Texas, and Washington, lawsuits have been filed against school districts for their drug testing policies. These school districts could spend thousands of taxpayers dollars and several years fighting lawsuits that have no guarantee of victory.

## Public Policy

### What Is Being Done?

Currently, the NCAA conducts test on their athletes annually. The NCAA visits each university once a year and tests three or four varsity teams. The universities are then left up to test their athletes at their discretion. The NCAA also randomly tests their athletes at NCAA championship events and before all football bowl games. Institutions that have been randomly selected are notified by the NCAA 48 hours before the testing is to be performed. The tests are conducted by the National Center for Drug Free Sport. Any athlete that tests positives may lose their eligibility for a year. The athlete could possibly lose his or her scholarship depending on the policy set forth by his or her institution.

In the National Basketball Association, rookie players are tested up to four times a season. Veterans are subject to one test and that takes place during training camp. The NBA prohibits the use of amphetamines, cocaine, LSD, opiates, PCP, marijuana, and steroids. Any player who tests positive on a drug test can face anywhere from game suspensions to a lifetime ban.



In the National Football League, steroid use is banned. Players are randomly drug tested and those who test positive could face game suspensions.

There is no mandatory drug testing policy in the National Hockey League. Mandatory drug testing is only conducted on players that are currently in the leagues substance abuse aftercare program. Players who are abusers can seek help the first time with facing exposure or suspension.

In boxing, policies vary from state to state, though most do not test boxers. The state of Nevada began testing boxers in 2002 for use of illegal steroids. Using the urinalysis test samples are checked for 25 different steroids.

Currently the Professional Golf Association does not test its athletes for performance enhancing drugs. The reason for this is there has been no evidence that performance-enhancing drugs can improve a players game. However, they will begin to test for unfair clubs next year.

Major League Baseball has come under scrutiny lately for its drug testing policy. Starting next year all players will be tested for steroids. The first time a player tests positive, he will be placed in a treatment program. For any subsequent positive tests the player will be fined between \$10, 000 and \$100, 000 and could be suspended from 30 days to a year without pay. Testing of all players will continue until positive tests drop below 2. 5% in two consecutive years.

At the high school level a national survey conducted six years after the Veronia v. Acton ruling showed only 5% of school districts have mandatory drug testing policies for student athletes, and only 3% for extra-curricular

participants. The survey indicated that mandatory drug testing was most common in rural school districts. It also showed that no school district tests all their students and none of the ten largest school systems in the United States have mandatory drug testing policies in place. Also, currently no school district tests for anabolic steroids, primarily because of the costs of tests. The justification for mandatory drug testing in school districts vary from school to school as much as drug testing policies themselves, but most school districts that decide not to test their students acknowledge that money is more wisely spent on education, counseling, and treatment.

Today, several state legislatures have tabled or defeated bills that would allow mandatory drug testing in high schools over concerns of privacy confidentiality, liability issues, and the overall effectiveness of drug testing programs. In other states, steroid abuse seems to be the hot topic of debate. In Florida, state representative Marcelo Llorente is pushing a bill that would require counties to test a percentage of their high school athletes for steroids. In California, state Senator Jackie Speier has introduced legislation to ban the sale of supplements such as ANDRO to teens. She is also pushing for the state to focus on statewide testing of high school athletes for steroids and supplements.

The federal government has also stepped up its efforts in the prevention of steroid abuse. Congress has introduced several bills to aid in this growing epidemic. The first bill introduced was to direct the National Institute of Standards and Technology to establish a program to support research and training in new methods of detecting the use of performance-enhancing drugs by athletes and for other purposes. The second bill was designed to

clarify a definition of anabolic steroids and to provide funding fund for steroid research and education. Finally the last bill was designed to give Major League Baseball a wake up call to improve their drug testing policies or Congress would step in and improve the policies for them.

President George W. Bush also stepped up his drug policies for the upcoming election year. During this years State of the Union address, President Bush proposed to expand federal monies for school drug testing programs more than tenfold, to \$23 million. During his speech, the President called drug testing the silver bullet that would eliminate teen drug use. The Presidents Office of National Drug Control Policy said part of the new money would go towards the study of a nationwide expansion of testing. President Bushs justification for this use of this new federal money is the reduction of teen drug use the past two years and arguing that drug testing in schools were an effective part in the decrease.

### What Should Be Done?

There are several things we can do to decrease the use of drugs among teenagers. The first step would be the removal of mandatory drug testing at the high school level. Mandatory drug testing has proven to be a: negative effect on the classroom or team, waste of valuable school financial resources, potential barrier to joining extra-curricular activities, false positive result could punish an innocent student. and could produce several unintended consequences. Another reason for the removal of mandatory drug testing at the high school level is that research has shown that the drug testing policies have no real effect on deterring teen drug use.

Money that was to be spent on drug testing should go into other means of drug prevention such as: counselors, anti-drug campaigns or education, drug awareness programs for athletes, and training for coaches, teachers, and administrators to help with spotting potential drug abusers. Teenagers are not like pilots or military personnel that will confine to drug screening.

Teenagers rebel against authority and someone is forcing them to be tested they will rebel against the school district.

The second step to reducing teenage drug use is stricter drug policies at the professional level of athletics, especially in Major League Baseball.

Professional athletes are seen as role models for today's youth. If a teenager sees an athlete using performance enhancing drugs or steroids to improve themselves, they may see that as a sign that those drugs aren't potentially dangerous. An example of this happened when Mark McGwire broke the home run record and admitted to using ANDRO. Almost immediately ANDRO sales rose and most of the consumers were teenagers looking to get an edge over their competition.

Finally, the third step to reducing teenage drug use is federal government increase its efforts in more productive manners. Congress needs to continue to pass bills that allow funding for research of better techniques of finding drug abuses. Congress also needs to step in and crack down on steroid and performance enhancing drug use. The first step is to come up with a solid definition of performance enhancing drugs, then put in place measures to prevent the use of them by athletes and teenagers.

President Bush needs to spend the money he proposed to spend on drug testing for more effective ways of prevention like drug education and research to find more reliable and less invasive way of testing for drugs. President Bush also needs to step up and address the nation on the dangers of performance enhancing drugs and steroids. The President also needs to encourage the American people to voice their opinions and force stricter drug testing policies at the professional levels of sports.

## Conclusion

After researching mandatory drug testing, it has become apparent that mandatory drug testing in schools is an issue that needs to be addressed. It not only affects adolescents who must go through the tests, but it affects teachers, coaches, administrators, the school district, parents, and society as a whole. Mandatory drug testing has been proven valuable in the work place, collegiate athletics, and professional athletics. However, mandatory drug testing has proven to be a costly tool that is not effective in a middle or high school environment. Therefore, local, state, and federal authorities must work to ensure these types of tests remain out of the school system. It is also the duty of the government to continue to educate teenagers, both students and athletes, about the dangers of drug abuse. The government also has an obligation to continue funding research to find new and effective ways of reducing drug abuse.

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