

Students

Conduct Code for Participants in Extracurricular Activities ¹

The Superintendent or designee, using input from coaches and sponsors of extracurricular activities, shall develop a conduct code for all participants in extracurricular activities consistent with School Board policy.² The conduct code shall: (1) require participants in extracurricular activities to conduct themselves as good citizens and exemplars of their school at all times, including after school, on days when school is not in session, and whether on or off school property; (2) emphasize that hazing and bullying activities are strictly prohibited; and (3) notify participants that failure to abide by it could result in discipline, up to and including removal from the activity. Participants who violate the conduct code will be allowed to give an explanation before being progressively disciplined.³ The conduct code shall be reviewed by the Building Principal periodically at his or her discretion and presented to the Board.

Participants in extracurricular activities must abide by the conduct code for the activity and Board policy 7:190, *Student Behavior*. All coaches and sponsors of extracurricular activities shall annually review the conduct code with participants and provide participants with a copy. In addition, coaches and sponsors of interscholastic athletic programs shall provide instruction on steroid abuse prevention to students in grades 7 through 12 participating in these programs. ⁴

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content.

² Optional:

...and the rules adopted by any association in which the School District maintains a membership.

³ In most cases involving a student's removal from an extracurricular activity, courts have ruled that participation in extracurricular programs is a privilege rather than a right. *Clements v. Bd. of Educ. of Decatur Public Sch. Dist. No. 61*, 133 Ill.App.3d 531 (4th Dist. 1985). The deprivation of a privilege does not trigger the Constitution's due process provision. Consequently, unlike school attendance, students generally have no constitutional right to participate in extracurricular programs. See also *Kevin Jordan v. O'Fallon THSD 203*, 302 Ill.App.3d 1070 (5th Dist. 1999). This case involved a type of *good citizen* rule in which all student-participants in extracurricular activities agreed to abide by the school's ban on alcohol and drug use. Pursuant to this rule, the school suspended a star football player who police had found intoxicated at a convenience store around 3:00 A.M. The suspension was upheld.

Compare with *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180 (2021), which involved a student suspended from the cheerleading squad for one year after she posted two vulgar *snaps* on Snapchat while off campus during the weekend. The U.S. Supreme Court held that while schools may have a special interest in regulating some off-campus student speech, e.g., teaching good manners and preventing disruption, here the school's interests were insufficient to overcome the student's interest in free expression, and the one-year suspension violated the student's First Amendment rights. The Court noted that the school's interest in regulation was diminished by the fact that the student's speech did not identify the school, did not target any member of the school community, and was transmitted through a personal cell phone to an audience consisting of her private circle of Snapchat friends. Comments during oral argument suggest the Court was particularly struck by the severity of the discipline issued as well. Careful factual analysis, in consultation with the board attorney, should occur when considering discipline of participants for off-campus activity. See sample administrative procedure 7:240-AP1, *Code of Conduct for Extracurricular Activities*.

⁴ 105 ILCS 5/27-255(d), renumbered by P.A. 104-391.

Extracurricular Drug and Alcohol Testing Program ⁵

The District maintains an extracurricular drug and alcohol testing program in order to foster the health, safety, and welfare of its students. Participation in extracurricular activities is a privilege and participants need to be exemplars. The program promotes healthy and drug-free participation.

Each student and his or her parents/guardians must consent to having the student submit to random drug and alcohol testing in order to participate in any extracurricular activity. Failure to sign the District's *Consent to Participate in Extracurricular Drug and Alcohol Testing Program* form will result in non-participation.

If a test is *positive*, the student will not participate in extracurricular activities until after a *follow-up* test is requested by the Building Principal or designee and the results are reported. The Building Principal or designee will request a *follow-up* test after such an interval of time that the substance previously found would normally be eliminated from the body. If this *follow-up* test is negative, the student will be allowed to resume extracurricular activities. If a *positive* result is obtained from the *follow-up* test, or any later test, the same previous procedure shall be followed.

The Superintendent or designee shall develop procedures to implement this policy. No student shall be expelled or suspended from school as a result of any verified positive test conducted under this program other than when independent reasonable suspicion of drug and/or alcohol usage exists. This program does not affect the District policies, practices, or rights to search or test any student who at the time exhibits cause for reasonable suspicion of drug and/or alcohol use.

Performance Enhancing Drug Testing of High School Student Athletes ⁶

The Illinois High School Association (IHSA) prohibits participants in an athletic activity sponsored or sanctioned by IHSA from ingesting or otherwise using any performance enhancing substance on its banned substance list, without a written prescription and medical documentation provided by a licensed physician who evaluated the student-athlete for a legitimate medical condition. IHSA administers a performance-enhancing substance testing program. Under this program, student athletes are subject to random drug testing for the presence in their bodies of performance-enhancing substances on the IHSA's banned substance list. In addition to being penalized by IHSA, a student may be disciplined according to Board policy 7:190, *Student Behavior*.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁵ This program is optional. The U.S. Supreme Court upheld the constitutionality of a student activities drug testing policy that required all middle and high school students to consent to random urinalysis testing for drugs in order to participate in any extracurricular activity. *Bd. of Educ. of Independent Sch. Dist. No. 92 v. Earls et al.*, 536 U.S. 822 (2002). This sample policy, as well as the procedures and forms implementing it, are based on the policy approved by the Seventh Circuit in *Todd v. Rush County Schs.*, 133 F.3d 984 (7th Cir. 1998). Alternatively, this program may be limited to extracurricular athletic participants; if so, add the Drug and Alcohol Testing Program to policy 7:300, *Extracurricular Athletics*, and delete it from here.

⁶ For a list of classes of banned substances, the testing program, and other related resources, see the IHSA Performance-Enhancing Drug Testing Policy in the *IHSA Handbook*, available online at: www.ihsa.org/about/constitution-by-laws-policies.

- LEGAL REF.: Mahanoy Area Sch. Dist. v. B.L., 594 U.S. 180 (2021).
Bd. of Educ. of Independent Sch. Dist. No. 92 v. Earls, 536 U.S. 822 (2002).
Vernonia Sch. Dist. 475 v. Acton, 515 U.S. 646 (1995).
Clements v. Bd. of Educ. of Decatur, 133 Ill.App.3d 531 (4th Dist. 1985).
Kevin Jordan v. O’Fallon THSD 203, 302 Ill.App.3d 1070 (5th Dist. 1999).
Todd v. Rush County Schs., 133 F.3d 984 (7th Cir. 1998).
105 ILCS 5/24-24 and 5/27-255(d).
- CROSS REF.: 5:280 (Duties and Qualifications), 6:190 (Extracurricular and Co-Curricular Activities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:300 (Extracurricular Athletics)