

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT BOARD OF EDUCATION
AGENDA STATEMENT

No. 7 f

MEETING OF August 14, 2019

REVIEWED BY:

ITEM TITLE:

PUBLIC HEARING - POLICY

Approval of revisions to Board Policy 5131.61-District-Sponsored Student Activities Alcohol, Tobacco and Other Drugs (ATOD) Testing

Superintendent
 Personnel
 Finance
 Policy Committee
 Building administrators

SUBMITTED BY: Beth Lougee, Superintendent

CONTACT PERSON/TELEPHONE:

APPROVED FOR SUBMITTAL:

Superintendent Lougee 247-2109
Phone

Superintendent

SUMMARY STATEMENT:

The School Board is being asked to approve a policy update/revision to District-Sponsored Student Activities Alcohol, Tobacco and Other Drugs (ATOD) Testing.

ISSUE:

Board Policy 9310 dictates that “the district shall develop or revise policies and regulations in order to reflect new legislation and changing community views.” Additionally, BP 9311 calls for the Superintendent or the Superintendent’s designee to “maintain procedures for the continuous orderly review of existing policies at a time allocated for this purposes on the agenda of regular Board meetings... in addition to presenting drafts or suggestions for new policy and policy revisions when changes in law occur or when a specific need arises”.

The Ketchikan High School Administration is proposing these changes.

BACKGROUND:

Revisions are not being proposed to the actual Board Policy 5131.61, but to the accompanying administrative regulations which lay out the procedures in detail.

Note: The new additions are in red type, while the deleted sections are in black strike-through.

RECOMMENDATION:

Approval of the revisions as presented.

ATTACHMENTS:

- Proposed revisions to AR 5131.61.

RECOMMENDED ACTION:

“I move that the Board of Education approve the proposed revisions to the Administrative Regulations of Board Policy 5131.61 - District-Sponsored Student Activities Alcohol, Tobacco and Other Drugs (ATOD) Testing in first reading.”

Students

DISTRICT SPONSORED STUDENT ACTIVITIES ALCOHOL, TOBACCO AND OTHER DRUG (ATOD) TESTING

Covered Students and Activities

All students at the middle school and high school level participating in District sponsored **athletic** activities are subject to student drug testing, which includes testing for illegal drugs, alcohol and tobacco. Participants in District-sponsored ~~student~~ **athletic** activities will be subject to the ATOD testing policy during the school year in which the activity occurs. ~~A list of activities and their seasons can be found in Appendix A.~~

Non-Punitive Self Referral

The Board strongly encourages any student who is using ATOD to discuss the matter with his/her parent/guardian or with any staff member. If the student is uncomfortable doing this, he/she is encouraged to ask a friend to discuss the problem with a parent/guardian or staff member. Students shall not be punished or disciplined for such past use, provided the student participating in competitive extra-curricular activities self reports prior to the start of the season and provides documentation of participation in an intervention program approved by the District. In addition, the student shall also submit to a drug screening at their expense and shall be required to provide the results to the District. Those students participating in a competitive **athletic** extra-curricular activity without a designated season, may choose to self-report prior to the first performance/competition and provide documentation of participation in a State approved intervention or recovery program and negative drug screen. Those students who choose to self report as set forth in this paragraph will not be considered in violation of BP 5131.61 testing policy, based on their reported past ATOD use.

Consent

Prior to the beginning of each District sponsored ~~student~~ **athletic** activity, each student participant and, if the student is a minor (under the age of eighteen), his or her parent, will be required to complete and sign the District Informed Consent Agreement. The agreement will state that the student, and his or her parent, if applicable, understands that by participation in the activity the student agrees to be subject to the District's drug testing policy. No student will be allowed to participate in practice, competition, performance or travel until this form is completed, signed and on file with the District.

DISTRICT SPONSORED STUDENT ACTIVITIES ALCOHOL, TOBACCO AND OTHER DRUG (ATOD) TESTING (continued)

Selection for Testing

1. Pre-season Testing.

At the option of the District, all students involved in District-sponsored ~~student~~ **athletic** activities may be tested at the beginning of the activity.

2. Random Testing.

Random drug testing will be conducted ~~weekly~~ **bi-weekly (every other week)** during the season for each activity. Approximately 10% of the students participating in covered activities will be tested each week. Students shall be selected for testing by lottery drawing or other random means from a pool of all students participating in covered activities at the time of the drawing. The superintendent shall take all reasonable steps to assure the integrity, confidentiality and random nature of the selection process including, but not necessarily limited to, assuring that the names of all students currently participating in covered activities are included in the pool, assuring that the person selecting students has no way of knowingly choosing or failing to choose particular students for testing, assuring that the identity of students selected for testing is not known to those involved in the selection process, and assuring direct observation of the selection process by at least two adults.

Scope of Tests

The testing laboratory will be instructed to test for one or more illegal drugs and/or their metabolites. Students shall not be tested for the presence of any substance other than an illegal drug, nor shall they be tested for the existence of any physical condition other than drug intoxication and/or the presence of illegal drugs in their systems. For purposes of BP 5131.61 and this regulation, tobacco and alcohol are considered illegal drugs.

TESTING PROTOCOL

General

The District will schedule all testing. The District shall designate a certain area in the high school and middle school buildings as the collection site. Designated testing laboratory personnel or District personnel will conduct tests. Those personnel or “test administrators” shall be trained in appropriate procedures for administering the test, recognizing adulteration, alteration or manipulation of samples, and evaluating test results. Testing methods may include the use of urine specimen, saliva specimen, and breath sample testing methods.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)**Specimen Collection**

Students to be tested shall present verification of their identities to the test administrator, if they are not personally known to the test administrator. In the absence of such verification the student's accompanying supervisor may identify the student.

1. Urine Specimen Collection.

Students providing urine specimens shall be asked to remove any jackets or coats and to wash and dry their hands prior to collection of the specimen. Students must leave their purses, packs, wallets and similar items outside the collection site to prevent access to adulterants. These procedures must be completed in the presence of the test administrator.

The student shall then be directed to a private area for production of a urine specimen. All students providing urine samples shall be given the option of doing so alone in an individual stall with the door closed. The student's selected test kit shall be opened in full view of the student. The test will be conducted with the least intrusiveness possible while ensuring accuracy of the results.

After urine specimen testing, the student must present the specimen to the test administrator prior to washing his/her hands or flushing the toilet. The specimen shall remain in the student's visual field while the test administrator conducts the following procedures. The test administrator shall measure the specimen and record its temperature. The test administrator shall then divide the specimen in half and shall conduct initial screening using one of the halves. If that screening yields a negative result, the entire specimen will be discarded.

If the urine specimen screening yields an inconclusive or presumptively positive result, the remaining half of the specimen shall be sealed for transmission to a testing laboratory for confirmatory testing. The student shall be requested to initial and date a form identifying the specimen.

If a student is unable to produce a urine specimen at the time for testing, the student will be allowed to return to provide a urine sample later that same day or the student may choose to be tested by providing a saliva specimen.

2. Saliva Specimen Collection.

Saliva specimens shall be collected by swabbing the inside of the student's mouth. The saliva specimen will then be screened. If the screening test for substances is inconclusive, another saliva specimen shall be collected and screened. If the results of the second screening test are inconclusive, the student will be required to provide a urine specimen or, in the case of alcohol testing, a breath sample.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

For substances other than alcohol, if the screening test is presumptively positive, the remaining saliva specimen will be sealed for transmission to the testing laboratory for confirmation testing. The student shall be requested to initial and date a form identifying the specimen.

If the screening test for alcohol is presumptively positive for alcohol, an initial breath alcohol test will be performed, followed by a second breath test, to confirm the results of the alcohol saliva test.

Confirmatory Testing - Medications

For substances other than alcohol, the testing laboratory shall conduct confirmatory testing using gas chromatography/mass spectrometry (GC/MS) techniques. Tests for substances other than tobacco shall not be considered positive unless the substance to be tested is present at a level equal to or greater than the cutoff level established by the United States Department of Health and Human Services for that substance. For tobacco, the test shall be considered positive if more than 200 ng/ml of the chemical cotinine is found to be present. **For opioids, the test shall be considered positive if more than 300 ng/ml of the chemical codeine and 2,000 ng/ml of the chemical morphine is found to be present.** All positive GC/MS test results shall be reviewed by a licensed physician or osteopath. The physician or osteopath shall contact the student within 48 hours of receiving a confirmatory positive test/result from the laboratory and offer an opportunity to discuss the test results. Students who believe the results are due to medication shall provide verification of prescriptions or other relevant medical information to the medical review officer, if they wish to challenge the results on that basis. Test results that the physician or osteopath concludes are caused by medicine prescribed for the student or by the legal use of any substance shall be reported as negative. For alcohol, the test shall be considered positive if any alcohol is found to be present. Confirmation testing for alcohol shall be by breath sample testing as set forth above.

Alteration or Manipulation of Samples

The use of substances and methods that alter the integrity and/or validity of samples provided by students is prohibited. Examples of banned methods are catheterization, urine substitution and/or tampering, or modification of renal excretion by the use of diuretics or masking substances or agents.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

Request for Retest

Where a split specimen has been collected, the student may request a retest of the split specimen within 72 hours of notification of the final test result. Where a single specimen is submitted for testing, the student may request a retest of the original sample within 72 hours after notification of the final test result. Requests must be submitted to the testing laboratory. The student will be required to pay the associated costs of retest in advance but will be reimbursed if the result of the retest is negative. Re-testing is not available for alcohol.

Opportunity to Explain

The District shall notify the student and at least one of the student's parents of a positive test result or other violation and the consequences and shall provide an opportunity for the student and/or the parent(s) to comment on or explain the result or other violation to the principal and/or the physician or osteopath confidentially prior to taking any action to exclude the student from participation in the activity.

Copies of Results

Students have the right to obtain a copy of the written results of their tests if they make a written request to the principal within six months after the date of the test.

All parents of minor students and all parents of dependent students are entitled to receive written copies of test results if they requested as provided above and to review any records the District maintains related to their child's testing.

VIOLATIONS

The following constitute violations for purposes of imposing consequences on students participating in District sponsored ~~student~~ **athletic** activities:

- a. A positive drug screen;
- b. Refusal to take a drug test, unjustified delay in reporting for testing, or unjustified failure to produce a sample for screening;
- c. Violation of the testing protocol by the student;
- d. Manipulating, altering or attempting to alter or manipulate the integrity or validity of the collection process;
- e. Violation of the provisions of the Ketchikan Gateway Borough School District Extracurricular Activities Handbook concerning illegal drugs including alcohol and tobacco; or,
- f. Violation of the District's disciplinary rules regarding the use of illegal drugs including alcohol and tobacco.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

Those violations set forth in a-e above will result only in imposition of the consequences established by this regulation; however, violation of the District's disciplinary rules will result in imposition of both the consequences imposed by this policy and discipline under those rules.

CONSEQUENCES OF VIOLATION

Effect of Positive Initial Screening

In the event of a positive initial screening test, a student may continue to participate in a covered activity pending receipt of the results of confirmatory testing unless, in the judgment of the principal, there is reason to believe that continued participation would present an unreasonable risk of harm to the student, other persons or property.

First Violation of ATOD

In response to the first violation, the following penalties will be applied:

- 1) Suspension from all District sponsored student activities for ~~10~~ 30 days.
- 2) Completion of 20 hours of community work service (community service for prior activities may not be substituted)
- 3) Completion of the AASA "Play for Keeps" ~~class online Student/Parent~~ **First Offense educational component**
- 4) Submission of a negative drug test (at student expense)

**The student may practice after completion of #2 through #4.*

Second Violation

In response to a second violation, the following penalties will be applied:

- 1) Suspension from all District sponsored student activities for ~~45~~ 60 days
- 2) Completion of 40 hours of community work service (community service for prior activities may not be substituted)
- 3) Completion of the ASAA "Play for Keeps" ~~class online Student/Parent~~ **Second Offense educational component**
- 4) Submission of a negative drug test (at student expense)

**The student may practice after completion of #2 through #4.*

Third Violation

In response to the third violation, the following penalties will be applied:

- 1) Suspension from all District sponsored student activities for six (6) months.
- 2) Completion of 60 hours of community work service (community service for prior activities may not be substituted)

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

3) Completion of the ASAA “Play for Keeps” class online Student/Parent third Offense educational component

4) Submission of a negative drug test (at student expense)

The student may **not practice for remainder of violation time period*

Third Violation

~~Although ASAA allows for a third and fourth violation, the Ketchikan Gateway Borough School District does not. In response to a third violation, the following penalty will be applied:~~

- ~~• Suspension from all District sponsored activities for the remainder of the student’s high school career~~

Fourth and Subsequent Violation(s)

In response to the fourth and subsequent violation(s), the following penalties will be applied:

1) Suspension from all District sponsored student activities for one (1) year

2) Completion of 100 hours of community work service (community service for prior activities may not be substituted)

3) Completion of the ASAA “Play for Keeps” class online

4) Submission of a negative drug test (at student expense)

The student may **not practice for remainder of violation time period*

Access to Results

The results of a drug test will be treated as confidential information to the extent permitted by law. Except as otherwise required by law, the District will limit disclosure of information acquired in a drug test, including the positive and negative results, to the following individuals unless the student consents in writing to other disclosures: (1) the student; (2) the student’s parents (when requested in writing); (3) the student’s principal and other school officials (including coaches and activity advisors) with a need to know; (4) the test administrator and laboratory personnel; (5) medical review personnel; (6) a counselor or other rehabilitation personnel if the student seeks or is required to use such service; and, (7) the appeal hearing officer. The results of random testing will not be disclosed to criminal or juvenile authorities absent a legal requirement to do so.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

Payment Responsibilities

The student or the student's parents shall be responsible for arranging and paying the cost of any post violation re-entry testing, drug assistance programs or drug assessments and compliance with drug assessment recommendations including recommended treatment.

Non-Punitive Nature of Policy

Except as provided above, students shall not be excluded from participation in activities, penalized academically or otherwise disciplined in response to a positive result from an ATOD violation under this regulation or other violation of this regulation.

Appeal Procedures

The following appeal procedures apply to exclusion from participation in a covered activity: ~~can we amend the appeal procedure to address only practicing, not travel or competing pending the appeal process.~~

1. Exclusion pending a hearing and appeal: If a student and/or the student's parent/guardian requests a hearing in writing within three (3) calendar days of the meeting with the principal, the exclusion shall be delayed or suspended pending the hearing. However, the exclusion shall not be delayed pending a hearing if, in the judgment of the principal, there is reason to believe that the participation by the student would present an unreasonable risk of harm to the student, other persons or property. In such instances, the student shall not participate in the covered activity.
2. The Hearing Officer: A hearing officer shall be appointed by the Superintendent or designee to conduct a hearing and make a recommendation to the Superintendent or designee. The administrative hearing shall be conducted in accordance with these rules:
3. The following procedural guidelines shall govern the hearing:
 - a. The parent/guardian/student may be present at the hearing and the student may be represented by legal counsel or other spokesperson/advocate.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

- b. Both student and the District shall have the opportunity to present their versions of the relevant facts, submit the evidence upon which they rely, and bring forth witnesses.
- c. The hearing need not be conducted according to technical rules relating to evidence and witnesses. All relevant, not unduly repetitious, evidence shall be accepted.
- d. All witnesses presenting testimony before the hearing officer shall be sworn to testify truthfully.
- e. The hearing officer shall make his/her recommendation solely upon the evidence presented at the hearing.
- f. A tape-recorded record shall be made of the hearing by the District.
- g. Within three (3) calendar days after completion of the hearing, the hearing officer shall provide a written recommendation to the Superintendent or designee to uphold or reject the exclusion. The Superintendent or designee shall then make his/her determination and shall provide the student and parent/guardian with a written decision, which shall include a copy of the hearing officer's findings and recommendation, within five (5) calendar days after completion of the hearing.
- h. If the Superintendent or designee upholds the exclusion, so that exclusion time remains, the exclusion will be enforced immediately upon receipt by the student and parent/guardian of the Superintendent's or designee's decision. Such decision shall be final, subject only to appeal of the administrative decision to the Superior Court.

DISTRICT SPONSORED STUDENT ACTIVITIES ATOD TESTING (continued)

DEFINITIONS

“Alcohol” – For purposes of BP 5131.61 and this regulation, alcohol means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol.

“DISTRICT SPONSORED ACTIVITY” - For purposes of BP 5131.61 and this regulation, District sponsored activity means District-sponsored athletic programs and any other activities under the direct control of the District in which students engage in activities representing the School District including, but not limited to, activities sponsored by the Alaska Student Activities Association and Alaska Association of Student Government .

“Drug” or “illegal drug” - For purposes of BP 5131.61 and this regulation, drug or illegal drug means a substance controlled or considered unlawful under AS 11.71, as that chapter may be amended, or the metabolite of the substance, which has not been validly prescribed for the student by a licensed health care provider authorized to prescribe the substance. For purposes of BP 5131.61 and this regulation, “drug” and “illegal drug” also means and includes alcohol and tobacco.

“Parent” - For purposes of BP 5131.61 and this regulation, parent means a student’s natural parent, guardian, or an individual acting as a parent in the absence of a parent or guardian.

“Season” – For purposes of BP 5131.61 and this regulation, season means the period commencing with the first practice and ending at the conclusion of the last performance or contest scheduled for the activity, including any state tournaments or meets.

“Tobacco” – For purposes of BP 5131.61 and this regulation, tobacco means items such as cigars, cigarettes, snuff, loose tobacco and similar goods made with any part of the tobacco plant or which contain nicotine and which are prepared or used for smoking, chewing, dipping, sniffing or otherwise.

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT

Revision Date: 2/27/08

Posting Date: 11/22/2010

STUDENT EXTRA-CURRICULAR ATOD TESTING

Informed Consent Agreement

Ketchikan Gateway Borough School District

I have read the attached Board Policy and Administrative Regulation 5131.61 on ATOD testing for students.

I understand that my performance as a participant and the reputation of my school are dependent in part, on my conduct as an individual. I hereby agree to accept and abide by the standards, rules, and regulations set forth by the Ketchikan Gateway Borough School District for the activity in which I participate.

I authorize Ketchikan Gateway Borough School District to conduct a test on a urine and/or saliva specimen, which I provide to test for ATOD. I also authorize the release of information concerning the results of such a test to the individuals identified in the Ketchikan Gateway Borough School District regulation on drug testing, AR 5131.61.

This agreement shall be deemed consent pursuant to the Family Education Right to Privacy Act for the release of above information to the parties named above.

Student Signature

Date

Print Student's Name

I understand that submission to drug testing is a condition of my child's participation in school sponsored District sponsored student activities. I hereby consent to the testing of my child for ATOD and to the release of information concerning the testing as provided above.

Parent or Guardian Signature

Date

To address parental concerns about testing during the school day, we are providing an opportunity for the student to be tested before school starts in the mornings (7:30 a.m.). If you would like this opportunity, please initial the box below.

- If my student is chosen for the Random ATOD Testing, I will bring him/her to school early that morning. I understand that if I am unable to get him/her there that day, the test will be conducted during school that day.

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