

The Public's Health and the Law in the 21st Century
4th Annual Partnership Conference

Concurrent Session

**Reducing the Risk of Drugs in Schools: Medical
Management and Illegal Use**

Tuesday, June 14, 2005
3:15-4:45 pm

Moderator: Howell Wechsler, PhD, Director, Division of Adolescent and School Health,
CDC, Atlanta, GA

Panelists: Tony Derezinski, JD, LLM, Director, Government Relations, Michigan
Association of School Boards, Lansing, MI

Nadine Schwab, RN, MPH, Supervisor of Health Services, Westport Public
Schools, Westport, CT

Timothy Volpert, JD, Partner, Davis Wright Tremaine, LLP, Portland, OR

Session Purpose:

To promote the health of young people, it is important that public health officials, legislators, and legal advisors are informed of the many issues associated with students' use of drugs, both illegal and legal, while in school. Drug abuse can lead to illness, impaired educational performance, and even death. Likewise, assuring the availability of prescribed medications during the school day is important for many students with acute and chronic health conditions. Public health officials, legislators, and legal advisors play a key role at both the state and local level in making policy decisions and passing legislation regarding these issues.

Although controversial, drug testing programs are used by some communities in an attempt to reduce student drug use. Case law sets clear boundaries on implementation of student drug testing programs. Panelist Timothy Volpert was the lead attorney representing the defendant school district in the *Vernonia School District 47J v. Acton* case ruled on by the US Supreme Court in 1995. This landmark decision established the constitutionality of random drug testing among student athletes.

In light of school inclusion laws that require children with disabilities to be served in the least restrictive educational setting, and given the ubiquitous need for prescribed medications in the school setting, educators, public health officials, legislators, and

legal advisors all need to understand the legal issues associated with in-school medication for students (including emergency medications, self-carrying policies, etc.) Panelist Tony Derezinski, formerly a state legislator, brings to this session a background in health care and medical management of children in schools. He is active at the state and federal levels regarding medication administration and medical management of school children. Panelist Nadine Schwab is a prolific writer and speaker on legal issues associated with health services in schools and is co-editor of the text “Legal Issues in School Health Services: a Resource for School Administrators, School Attorneys, and School Nurses.”

Learning Objectives:

By the close of this session, conference participants will be able to:

- Describe the legal boundaries of school random drug testing programs;
- Provide an overview of federal and state laws related to medication management of students with special health care needs; and
- Identify special public health and legal considerations regarding the provision of medications to students.

Session Convener:

Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, CDC

Resource Materials:

Drug Testing of Interscholastic Athletes in Public Schools, Legal Handbook on School Athletics, National School Boards Association. 1997.

Vernonia School District 47J v. Acton, 515 US 646 (1995).

Board of Education of Independent School District No 92 of Pottawatomie County v. Earls. 536 US 822 (2002).

Position Statement: The Role of the School Nurse Regarding Drug Testing in Schools. National Association of School Nurses. www.nasn.org/positions/drugtest.htm

Yamaguchi R., Johnston LD, O’Malley PM. Relationship between student illicit drug use and school drug testing policies. *Journal of School Health*. 2003;73(4):159-164.

Goldberg L, Elliot DL, MacKinnon DP, et al. Drug testing athletes to prevent substance abuse: background and pilot study results of the SATURN (student athlete testing using random notification) study. *Journal of Adolescent Health*. 2003;32:16-25.

The CDC Division of Adolescent and School Health (DASH), through its national Youth Risk Behavior Survey, collects data on alcohol, tobacco, and other drug use

among a nationally representative sample of students in grades 9—12 (www.cdc.gov/yrbss).

DASH also conducts the School Health Policies and Programs Study (SHPPS 2000), a national survey conducted to assess school health policies and programs at the state, district, school, and classroom levels. That study includes data on policies and programs addressing alcohol, tobacco, and other drug use (www.cdc.gov/shpps).

Legal Issues in School Health Services. Nadine C. Schwab and Mary H.B. Gelfman (eds). North Branch, MN: Sunrise River Press. 2001.

Everett Jones S, Wheeler L. Asthma Inhalers in Schools: Rights of Students with Asthma to a Free Appropriate Education. American Journal of Public Health. 2004;94:1102-1108.

The Center for Health and Health Care in Schools. State policies on administration of medications in schools. www.healthinschools.org/sh/mgmtpolicies.asp.

Hendeles L, Altenburger KM, Benton T. Self-administration at school of prescribed medications for asthma and anaphylaxis. Journal of Pediatric Pharmacology and Therapeutics. 2003;8(4):250-251.