



# A MODEL CODE on Education and Dignity

## CHAPTER 3: DIGNITY

### 3.7.f Model Policy on Drugs and Alcohol

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#### Human Rights Goal

Schools shall provide comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons, as well as harm reduction strategies for youth who are already users of drugs, alcohol or other harmful substances. Teachers and other professionals shall be equipped and trained to prevent and deal with these problems in effective and appropriate ways that emphasize harm reduction, healing, counseling, assistance and therapy-oriented interventions.<sup>267</sup>

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#### Recommended Language

**A. Schools must adopt a school-wide prevention and harm reduction policy as a necessary foundation to a drug and alcohol prevention and intervention policy.**

**B. Drug Education**

1. The school district shall provide age-appropriate, school-tested, evidence-based drug education to help prevent or reduce the use of alcohol, tobacco and other substances by students. Such programs must assist with the development of students' life skills and protective behaviors and ensure that students are connected to their schooling.
2. The school district shall cease any DARE<sup>268</sup> programming or similarly modeled programs as they have been overwhelmingly proven to be both costly and grossly ineffective in reducing either current or later onset of alcohol or drug use or abuse.

**C. Elements of Effective Drug Education Curriculum**

1. The drug education process must be honest, balanced, interactive and respectful of students' intelligence and experience, and delivered in a way that ensures the full participation of students.
2. Such instruction must go beyond abstinence-only messages and emphasize safety and harm reduction.<sup>269</sup> The drug education curriculum shall be incorporated into the students' general curriculum and conducted by school-based education, health and/or mental health personnel.
3. The drug education process must consist of a continuum of practices. Rather than rely on lectures by teachers or experts, films, posters and brochures, the school district shall implement interactive drug education programs involving role-plays, small group discussions, skills-based training, interactive games and exercises, debates and student-led presentations and discussions.<sup>270</sup> By educating students in an interactive setting, these prevention and education programs shall target students' influences and misconceptions regarding their peers' social attitudes surrounding drug use.<sup>271</sup> These interactions aid students by helping them develop refusal skills and by providing true data on drug use. This counters the anecdotal "everybody is doing it" mentality, which reinforces the unhealthy behavior as normal, when in fact it is not.<sup>272</sup> The programs shall be tailored to the age of the students, and shall respond to and reflect students' changing perceptions of drug use.
4. Schools are encouraged to train and integrate peer health educators and promoters into all aspects of the school environment in order to model harm reduction and prevention strategies and transform the culture of the school and the larger community. Peer educators and promoters shall be encouraged to integrate fully into

student life both during and outside of school and shall reflect the full diversity of the student population with a special emphasis on involving trusted youth leaders from the sub-groups most impacted by addiction.

5. Where available, the school's health education department and/or staff shall provide assistance with the design and implementation of the drug education program and shall coordinate student assistance programs with its drug education program.
- D. Searches – The school or district shall not conduct unreasonable searches and seizures of students. Strip-searches of students to detect the presence of alcohol or other drugs shall be prohibited, and the district shall not permit School Resource Officers, police or other law enforcement to conduct random drug raids, nor use drug-sniffing dogs to investigate the prevalence of drugs on campus.**
- E. Random Drug Testing – The school or district shall prohibit the use of random drug testing of students.<sup>273</sup> Where students are on probation or parole and required to test, such testing shall take place outside of school in order to protect youth from ridicule or discrimination by peers, school staff or the larger community.**
- F. Resources – Schools or districts shall develop a list of programs and services related to drug, alcohol and tobacco use and abuse that are available to the school population, students' families and the larger community.**
- G. Intervention – The school or district shall recognize that student drug and alcohol abuse is a public health issue and not a school discipline, juvenile justice or criminal justice issue. Therefore, students suspected of using or abusing drugs shall be referred to student assistance programs and shall be provided with harm reduction, counseling and/or treatment by trained professionals.**
1. Every effort shall be made to retain students within the educational setting and keep students out of the juvenile or criminal court setting. All school staff and law enforcement working in or around school campuses shall understand the lasting and often irreversible impact that drug allegations or convictions (whether for intoxication (DUI), possession, distribution or sales) have on a young person's life chances, including opportunities for employment, higher education, financial aid, public housing and other public benefits. The school shall assist recovering students to avoid re-involvement with substances by providing school and/or community-based services and activities designed to increase students' sense of community and connectedness with school.<sup>274</sup>
  2. Suspension and expulsion are not considered intervention.<sup>275</sup> The school shall coordinate student assistance programs and intervention services with its drug education program, and use preventive and positive discipline measures, especially Restorative Justice Practices, which are particularly suited to addressing issues of drug use or abuse.<sup>276</sup>
  3. In cases where students are suspected of distributing or selling drugs, every effort shall be made to keep the student in an educational setting and to respond through positive disciplinary measures as well as positive interventions, such as:<sup>277</sup>
    - a. Partnering with the justice system to avoid arrests and if arrests occur, to refer students to positive programs that serve as alternatives to court, detention, incarceration, probation violation and/or deportation;
    - b. Job training and placement to help students find positive sources of income outside of the underground economy;
    - c. Connecting youth to trained intervention workers that can coach them on the negative impacts of distributing and selling drugs on communities, families and individual sellers; and
    - d. Transformative justice processes which focus on connecting youth to people most impacted by the underground economy and providing youth with real opportunities to repair harm that they have caused their peers, their peers' families and the larger community. Such programs can include visits with hospital neo-natal wards, emergency rooms, lock-ups and morgues, but should focus on healing, harm reduction

and accountability as more effective interventions than “scared straight” models which have been proven ineffective.<sup>278</sup>

4. For a student with a qualifying disability and an existing IEP or 504 plan under the Individuals with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, the student’s IEP or 504 team shall re-evaluate the student’s plan to make sure that the accommodation plan is meeting the student’s needs.<sup>279</sup> Changes to the plan should assist the student in addressing the risky behaviors, reducing harm, and healing from any trauma and/or other root causes of substance use or abuse.

**H. Confidentiality – The school or district shall create an environment in which students are encouraged to seek help from teachers and administrators. Student records are confidential and shall not be disclosed unless required by federal, state or local laws as ordered by a search warrant or similar court order. Documents generated, obtained, or maintained during the course of an investigation pertaining to a student’s violation of school policy concerning the use of alcohol, tobacco or other drugs, are deemed student records, and all school personnel must exercise great care to protect the confidentiality of this information.**<sup>280</sup>

<sup>267</sup> The Riyadh Guidelines, *supra* note 124 at ¶ 35.

<sup>268</sup> Project DARE, the Drug Abuse Resistance Education program, was developed in 1983 as a joint project of the Los Angeles Unified School District and the Los Angeles Police Department. It is the most visible and widely used drug abuse prevention program in the United States. 86 percent of school districts reported using DARE programs. See generally Dion Hallfors, Will the ‘Principles of Effectiveness’ Improve Prevention Practice? Early Findings from a Diffusion Study, 17 *Health Educ. Research* 461-470 (2002), available at <http://her.oxfordjournals.org/content/17/4/461.full>.

<sup>269</sup> See generally Rodney Skager, Drug Policy Alliance, Beyond Zero Tolerance: A Reality Based Approach to Drug Education and Student Assistance (2007), available at <http://www.drugpolicy.org/sites/default/files/beyondzerotolerance.pdf>.

<sup>270</sup> “Interactive programs which foster interpersonal skills and active engagement between students and teachers... are more effective at reducing, preventing, or delaying adolescent drug use for all substances...” *Id.*

<sup>271</sup> See generally Alice Evans & Kris Bosworth, Building Effective Drug Education Programs, 19 *PHI DELTA KAPPA Ctr. For Evaluation, Dev., And Research* (1997).

<sup>272</sup> See generally Skager, *supra* note 273.

<sup>273</sup> The first large-scale national study on student drug testing found virtually no difference in rates of drug use between schools that have drug testing programs and those that do not. Based on data collected between 1998 and 2001 from 76,000 students nationwide in 8th, 10th and 12th grades, the study found that drug testing did not have an impact on illicit drug use among students, including athletes. Drug-testing is counter-productive by erecting barriers to participation in the very activities likely to increase students’ connection to caring adults at school, and provide structure and supervision during the peak hours of adolescent drug use, 3-6 P.M. Ryoko Yamaguchi et al., Relationship Between Student Illicit Drug Use and School Drug-Testing Policies, 73 *Journal Of Sch. Health* 159-164 (2003), available at <http://www.monitoringthefuture.org/pubs/text/ryldjpm03.pdf>. “Nationwide, students who participate in extracurricular activities are significantly less likely to develop substance abuse problems than are their less-involved peers. See Nicholas Zill Et Al., U.S. Dept. Of Health & Human Servs., Adolescent Time Use, Risky Behavior and Outcomes: An Analysis of National Data (1995), available at <http://aspe.hhs.gov/hsp/cyp/xstimuse.htm> (“students who reported spending no time in school-sponsored activities were 49 percent more likely to have used drugs”). Additionally, studies have shown that drug-testing is not sufficiently reliable, is cost-prohibitive, and wastes scarce dollars that could be better spent on other, more effective programs that keep young people away from drugs. “Drug testing costs schools an average of \$42 per student tested, which amounts to \$21,000 for a high school testing 500 students. This figure is for the initial test alone and does not include the costs of other routine components of drug testing, such as additional tests throughout the year or follow-up testing. The cost of drug testing often exceeds the total a school district spends on existing drug education, prevention and counseling programs combined.” Jennifer Kern et al., Making Sense of Student Drug Testing: Why Educators Are Saying No (2006), available at [http://www.aclu.org/images/asset\\_upload\\_file598\\_23514.pdf](http://www.aclu.org/images/asset_upload_file598_23514.pdf).

<sup>274</sup> See generally Cotati-Rohnert Park Unified Sch. Dist. Governing Bd., Policy on Alcohol and Other Drugs, <http://www.cpusd.org/stuser/5131%206%20BP%20Alcohol%20and%20Other%20Drugs%206%2006.pdf>.

<sup>275</sup> See generally L.A. Unified Sch. Dist., Preventive Measures and Mandatory Procedures for Students Who Violate Laws Regarding Drugs, Alcohol, And Tobacco (2006), available at [http://www.lausd.oehs.org/docs/SSPVolume1/SSP%20V1\\_ResourceDocuments/Bul-3277.pdf](http://www.lausd.oehs.org/docs/SSPVolume1/SSP%20V1_ResourceDocuments/Bul-3277.pdf).

<sup>276</sup> See generally David Karp & Beau Breslin, Restorative Justice in School Communities, 33 *YOUTH & SOC’Y* 249-272 (2001), available at <http://www.skidmore.edu/~dkarp/Karp%20Vitaefiles/Restorative%20Justice%20in%20School%20Communities.pdf>.

<sup>277</sup> See generally Cristiana Pereira Baptista, Therapeutic Justice and Peace Circles: A Restorative Opportunity for Youth Drug Users in Conflict with the Law, available at <http://www.iirp.edu/pdf/Nova-Scotia-2011-Presentations/Nova-Scotia-2011-Pereira-Baptista.pdf>.

<sup>278</sup> See generally Tara Andrews & Idit Knaan, Scared Straight: Don’t Believe the Hype (Facts from CJJ), <http://www.reclaimingfutures.org/blog/juvenile-justice-reform-Scared-Straight-Facts-vs-Hype> (Aug. 8, 2012).

<sup>279</sup> Office for Civil Rights, Dept. Of Educ., Protecting Students with Disabilities: Frequently Asked Questions About Section 504 And the Education of Children with Disabilities, <http://www2.ed.gov/about/offices/list/ocr/504faq.html>.

<sup>280</sup> See generally Preventive Measures and Mandatory Procedures, *supra* note 279.