

**BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 92 OF
POTTAWATOMIE COUNTY v. EARLS, 536 U.S. 822**

Argued March 19, 2002--Decided June 27, 2002

Justice Thomas delivered the opinion of the Court.

The Student Activities Drug Testing Policy implemented by the Board of Education of Independent School District No. 92 of Pottawatomie County (School District) requires all students who participate in competitive extracurricular activities to submit to drug testing. Because this Policy reasonably serves the School District's important interest in detecting and preventing drug use among its students, we hold that it is constitutional.

I

The city of Tecumseh, Oklahoma, is a rural community located approximately 40 miles southeast of Oklahoma City. The School District administers all Tecumseh public schools. In the fall of 1998, the School District adopted the Student Activities Drug Testing Policy (Policy), which requires all middle and high school students to consent to drug testing in order to participate in any extracurricular activity. In practice, the Policy has been applied only to competitive extracurricular activities sanctioned by the Oklahoma Secondary Schools Activities Association, such as the Academic Team, Future Farmers of America, Future Homemakers of America, band, choir, pom pon, cheerleading, and athletics. Under the Policy, students are required to take a drug test before participating in an extracurricular activity, must submit to random drug testing while participating in that activity, and must agree to be tested at any time upon reasonable suspicion. The urinalysis tests are designed to detect only the use of illegal drugs, including amphetamines, marijuana, cocaine, opiates, and barbituates, not medical conditions or the presence of authorized prescription medications.

At the time of their suit, both respondents attended Tecumseh High School. Respondent Lindsay Earls was a member of the show choir, the marching band, the Academic Team, and the National Honor Society. Respondent Daniel James sought to participate in the Academic Team. Together with their parents, Earls and James brought a 42 U. S. C. §1983 action against the School District, challenging the Policy both on its face and as applied to their participation in extracurricular activities. They alleged that the Policy violates the Fourth Amendment as incorporated by the Fourteenth Amendment and requested injunctive and declarative relief.

II

Searches by public school officials, such as the collection of urine samples, implicate Fourth Amendment interests. We must therefore review the School District's Policy for "reasonableness," which is the touchstone of the constitutionality of a governmental search.

In the criminal context, reasonableness usually requires a showing of probable cause. The probable-cause standard, however, "is peculiarly related to criminal investigations" and may be unsuited to determining the reasonableness of administrative searches where the "Government seeks to *prevent* the development of hazardous conditions." The Court has also held that a warrant and finding of probable cause are unnecessary in the public school context because such requirements " `would unduly interfere with the maintenance of the swift and informal disciplinary procedures [that are] needed.' "

Given that the School District's Policy is not in any way related to the conduct of criminal investigations, respondents do not contend that the School District requires probable cause before testing students for drug use. Respondents instead argue that drug testing must be based at least on some level of individualized suspicion.

This Court has previously held that "special needs" inhere in the public school context. While schoolchildren do not shed their constitutional rights when they enter the schoolhouse, "Fourth Amendment rights ... are different in public schools than elsewhere; the `reasonableness' inquiry cannot disregard the schools' custodial and tutelary responsibility for children." In particular, a finding of individualized suspicion may not be necessary when a school conducts drug testing.

A

We first consider the nature of the privacy interest allegedly compromised by the drug testing. As in *Vernonia*, the context of the public school environment serves as the backdrop for the analysis of the privacy interest at stake and the reasonableness of the drug testing policy in general.

A student's privacy interest is limited in a public school environment where the State is responsible for maintaining discipline, health, and safety. Schoolchildren are routinely required to submit to physical examinations and vaccinations against disease. Securing order in the school environment sometimes requires that students be subjected to greater controls than those appropriate for adults.

Respondents argue that because children participating in nonathletic extracurricular activities are not subject to regular physicals and communal undress, they have a stronger expectation of privacy than the athletes tested in *Vernonia*. This distinction, however, was not essential to our decision in *Vernonia*, which depended primarily upon the school's custodial responsibility and authority.

In any event, students who participate in competitive extracurricular activities voluntarily subject themselves to many of the same intrusions on their privacy as do athletes. Some of these clubs and activities require occasional off-campus travel and communal undress. All of them have their own rules and requirements for participating students that do not apply to the student body as a whole. This regulation of extracurricular activities further diminishes the expectation of privacy among

schoolchildren. We therefore conclude that the students affected by this Policy have a limited expectation of privacy.

B

Next, we consider the character of the intrusion imposed by the Policy.

The procedure is virtually identical to that reviewed in *Vernonia*, except that it additionally protects privacy by allowing male students to produce their samples behind a closed stall. Given that we considered the method of collection in *Vernonia* a "negligible" intrusion, the method here is even less problematic.

Given the minimally intrusive nature of the sample collection and the limited uses to which the test results are put, we conclude that the invasion of students' privacy is not significant.

C

Finally, this Court must consider the nature and immediacy of the government's concerns and the efficacy of the Policy in meeting them. This Court has already articulated in detail the importance of the governmental concern in preventing drug use by schoolchildren. The drug abuse problem among our Nation's youth has hardly abated since *Vernonia* was decided in 1995. In fact, evidence suggests that it has only grown worse. As in *Vernonia*, "the necessity for the State to act is magnified by the fact that this evil is being visited not just upon individuals at large, but upon children for whom it has undertaken a special responsibility of care and direction." The health and safety risks identified in *Vernonia* apply with equal force to Tecumseh's children. Indeed, the nationwide drug epidemic makes the war against drugs a pressing concern in every school.

Additionally, the School District in this case has presented specific evidence of drug use at Tecumseh schools. Teachers testified that they had seen students who appeared to be under the influence of drugs and that they had heard students speaking openly about using drugs. A drug dog found marijuana cigarettes near the school parking lot. Police officers once found drugs or drug paraphernalia in a car driven by a Future Farmers of America member. And the school board president reported that people in the community were calling the board to discuss the "drug situation."

Given the nationwide epidemic of drug use, and the evidence of increased drug use in Tecumseh schools, it was entirely reasonable for the School District to enact this particular drug testing policy.

Respondents also argue that the testing of nonathletes does not implicate any safety concerns, and that safety is a "crucial factor" in applying the special needs framework. They contend that there must be "surpassing safety interests," or "extraordinary safety and national security hazards," in order to override the usual protections of the Fourth

Amendment. Respondents are correct that safety factors into the special needs analysis, but the safety interest furthered by drug testing is undoubtedly substantial for all children, athletes and nonathletes alike. We know all too well that drug use carries a variety of health risks for children, including death from overdose.

Finally, we find that testing students who participate in extracurricular activities is a reasonably effective means of addressing the School District's legitimate concerns in preventing, deterring, and detecting drug use. While in *Vernonia* there might have been a closer fit between the testing of athletes and the trial court's finding that the drug problem was "fueled by the 'role model' effect of athletes' drug use," such a finding was not essential to the holding.

Within the limits of the Fourth Amendment, local school boards must assess the desirability of drug testing schoolchildren. In upholding the constitutionality of the Policy, we express no opinion as to its wisdom. Rather, we hold only that Tecumseh's Policy is a reasonable means of furthering the School District's important interest in preventing and deterring drug use among its schoolchildren. Accordingly, we reverse the judgment of the Court of Appeals.

It is so ordered.

