

106TH CONGRESS  
1ST SESSION

# H. R. 1642

To require local educational agencies to develop and implement a random drug testing and counseling program for students in grades 9 through 12.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1999

Mr. ROGAN introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To require local educational agencies to develop and implement a random drug testing and counseling program for students in grades 9 through 12.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Parental Consent Drug  
5        Testing and Counseling Act”.

6        **SEC. 2. GRANT AUTHORIZATION.**

7        (a) STATE GRANTS.—The Secretary is authorized to  
8        provide grants to State educational agencies to provide  
9        subgrants that enable each local educational agency in the  
10       State to develop and implement a random drug testing

1 and counseling program authorized by parents for stu-  
2 dents in grades 9 through 12 that shall be conducted on  
3 school premises.

4 (b) STATE APPLICATION.—Any State educational  
5 agency that wishes to receive a grant under this part for  
6 any fiscal year shall submit an application to the Secretary  
7 at such time and in such manner as the Secretary may  
8 require.

9 (c) LOCAL SUBGRANTS.—

10 (1) IN GENERAL.—Each State educational  
11 agency that receives a grant award under this Act  
12 shall award not less than 99.75 of such amount to  
13 provide subgrants to local educational agencies.

14 (2) LOCAL APPLICATION.—Each Local edu-  
15 cational agency that wishes to receive a subgrant  
16 under this part for any fiscal year shall submit an  
17 application to the State educational agency at such  
18 time and in such manner as the State educational  
19 agency may require.

20 **SEC. 3. ALLOCATION.**

21 (a) IN GENERAL.—

22 (1) STATE ALLOCATION.—The Secretary shall  
23 allocate the amount available to carry out this Act  
24 and not reserved under subsection (b)(1) to each of  
25 the States as follows:

1 (A) Fifty percent shall be allocated among  
2 such States on the basis of their relative popu-  
3 lations of students in grades 9 through 12, as  
4 determined by the Secretary on the basis of the  
5 most recent satisfactory data.

6 (B) Fifty percent shall be allocated among  
7 such States in accordance with the relative  
8 amounts such States received under part A of  
9 title I of the Elementary and Secondary Edu-  
10 cation Act of 1965 for the preceding fiscal year.

11 (2) LOCAL ALLOCATION.—The State shall allo-  
12 cate the remaining amount available to carry out  
13 this Act and not reserved under subsection (b) to  
14 each of the local educational agencies in such State  
15 as follows:

16 (A) 50 percent shall be allocated among  
17 such local educational agencies on the basis of  
18 their relative populations of students in grades  
19 9 through 12, as determined by the Secretary  
20 on the basis of the most recent satisfactory  
21 data.

22 (B) 50 percent shall be allocated among  
23 such local educational agencies in accordance  
24 with the relative amounts such jurisdictions re-  
25 ceived under part A of title I of the Elementary

1           and Secondary Education Act of 1965 for the  
2           preceding fiscal year.

3           (3) REALLOCATION.—If any State does not  
4           apply for an allotment under paragraph (1) or a  
5           local educational agency does not apply for an allot-  
6           ment under paragraph (2) for any fiscal year, the  
7           Secretary or the State, as appropriate, shall reallo-  
8           cate such amount to the remaining jurisdictions in  
9           accordance with paragraph (1) or (2), as appro-  
10          priate.

11          (b) ADMINISTRATIVE COSTS.—

12           (1) SECRETARY.—The Secretary may reserve  
13           the lesser of \$200,000 or 0.10 percent of the total  
14           amount appropriated to carry out this Act in each  
15           fiscal year for the costs of administration.

16           (2) STATE EDUCATIONAL AGENCIES.—Each  
17           State educational agency may reserve not more than  
18           0.25 percent of any grant funds received under this  
19           Act in each fiscal year for the costs of administra-  
20           tion.

21           (3) LOCAL EDUCATIONAL AGENCIES.—Each  
22           local educational agency may reserve not more than  
23           4 percent of any grant funds received under this Act  
24           in each fiscal year for the costs of administration.

1 **SEC. 4. REQUIREMENTS AND OPTIONAL ACTIVITIES.**

2 (a) IN GENERAL.—Each local educational agency  
3 that receives a grant under this Act shall certify to the  
4 State educational agency that—

5 (1) funds received under this Act shall be used  
6 in accordance with subsection (b);

7 (2) the agency shall develop a plan to imple-  
8 ment a drug testing and counseling program; and

9 (3) before implementation, any drug testing and  
10 counseling plan or subsequent amendment to such  
11 plan shall be considered a public document and  
12 made available to the public for review, not later  
13 than 30 days after such plan or amendment is avail-  
14 able.

15 (b) USES OF FUNDS.—A local educational agency  
16 that receives a grant under this Act shall utilize such  
17 funds to provide, either directly or through contract with  
18 outside sources, the following:

19 (1) 50 percent of funds allocated under section  
20 3 shall be used to perform drug testing for each stu-  
21 dent in grades 9 through 12 for which the agency  
22 has received parental permission, not less than once  
23 each year. Such testing shall, at a minimum, include  
24 a drug screening for marijuana, amphetamines,  
25 phencyclidine (PCP), opiates, and cocaine.

1           (2) 50 percent of funds allocated under section  
2           3 shall be used to provide counseling services to any  
3           high school student who receives a positive test re-  
4           sult with such services continuing during the school  
5           year until a parent withdraws permission for such  
6           counseling.

7           (c) TESTING REQUIREMENTS.—A local educational  
8           agency that receives a grant under this Act shall imple-  
9           ment policies regarding drug testing as follows:

10           (1) In the case of any student who receives a  
11           positive drug test result for the first time during  
12           that school year, an additional drug test shall be ad-  
13           ministered.

14           (2) In the case of any student who receives a  
15           second positive drug test result, additional drug  
16           tests will be provided every 4 to 6 weeks until the  
17           parents of the student withdraw permission for drug  
18           testing.

19   **SEC. 5. GENERAL REQUIREMENTS.**

20           (a) REPORTING OF TEST RESULTS.—Each local edu-  
21           cational agency that receives funds under this Act shall  
22           inform parents in detail regarding the random testing pro-  
23           gram and the counseling program to ensure that—

24           (1) at the beginning of each school year parents  
25           are notified of the option to enroll their child in the

1 random drug testing program and informed of the  
2 counseling program and services offered through the  
3 program; and

4 (2) parents are notified, on a timely basis,  
5 regarding—

6 (A) the positive results of any drug test of  
7 their child who participates in the program; and

8 (B) the refusal of their child to take a  
9 drug test or participate in the counseling pro-  
10 gram, if applicable.

11 (b) CONFIDENTIALITY.—The local educational agen-  
12 cy shall develop and enforce standards designed to protect  
13 the confidentiality of all student test results with the re-  
14 sults of such tests released only to the parents of a stu-  
15 dent. No other public or private entity may receive or have  
16 access to drug testing results. No law enforcement agency  
17 shall have access to drug testing results. States shall de-  
18 velop policies dealing with violations of confidentiality.

19 **SEC. 6. DEFINITIONS.**

20 For purposes of this Act—

21 (1) the term “parent” includes a legal guardian  
22 or other person standing in loco parentis;

23 (2) the term “Secretary” means the Secretary  
24 of Education; and

1           (3) the term “State” means each of the 50  
2           States, the District of Columbia, the Commonwealth  
3           of Puerto Rico, the United States Virgin Islands,  
4           American Samoa, and Guam.

5 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

6           There are authorized to be appropriated  
7           \$1,000,000,000 to carry out this Act for each of fiscal  
8           years 1999 through 2003.

9 **SEC. 8. AMENDMENT TO ESEA.**

10          (a) AMENDMENT.—Part E of title XIV of the Ele-  
11          mentary and Secondary Education Act of 1965 is amend-  
12          ed by adding at the end the following:

13 **“SEC. 14515. RANDOM DRUG TESTING AND COUNSELING.**

14          “Any local educational agency that receives funds  
15          under this Act shall implement a drug testing and coun-  
16          seling program that meets the requirements of the ‘Em-  
17          powering Parents to Fight Drugs Act of 1998.’”.

18          (b) EFFECTIVE DATE.—A local educational agency  
19          shall implement a drug testing and counseling program  
20          referred to in section 14515 of the Elementary and Sec-  
21          ondary Education Act of 1965 not later than the school  
22          year beginning 1 year after the date of the enactment of  
23          this Act.

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