

## SUSPICIONLESS TESTING AND PUBLIC ENTITIES

Public entities such as municipalities, school districts, etc. have specific restrictions upon their drug-free workplace testing programs as public-entity employees come under Federal rules governing 4<sup>th</sup> Amendment issues of search and seizure which means that drug testing may NOT be done without a sufficient good cause (reasonable suspicion) of drug use **unless** there is a safety or security sensitive justification or regulations require suspicion-less testing, such as random testing.

There have been several significant Circuit Court rulings involving school districts & municipalities as provided below that may be of assistance in designing a testing program:

5<sup>th</sup> Circuit Court: Louisiana - The Circuit Court overruled the lower court, but the ruling was split. The case involved the random testing of a school custodian, which the school dist. claimed was a safety sensitive position due to custodians having access to the children. The Circuit Court ruling agreed with the school district designation, but there was strong dissent from the Court.

*Citation: 14 IER Cases 375 Lubrey vs. Lafayette Parish School Bd. (8/98)*

6<sup>th</sup> Circuit Court: Tennessee - The Circuit Court in this case again ruled in favor of the school district and allowed random testing of teachers and other admin. personnel as it agreed that these employees could be considered as safety-sensitive. However, the Court made a clear statement as to current laws being **unsettled**.

*Citation: 14 IER Cases 609 Knox Co. Educ. Assoc. vs. Knox Bd of Education (9/29/98)*

10<sup>th</sup> Circuit Court: New Mexico - In this case, the suspicionless testing of employees was not allowed.

*Citation: 14 IER Cases 629 Mechanics vs. City of Albuquerque (9/98)*

U.S. Supreme Court: The Supreme Ct. reversed a 9<sup>th</sup> Circuit Court ruling in a 6-3 decision in **favor** of random drug testing of junior and senior high school student athletes, even when there is no suspicion of drug use.

*Citation: Vernonia School District 47J v. Acton, No. 94-950 (June 26, 1995)*