Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 92 OF POTTAWATOMIE COUNTY ET AL. *v.* EARLS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 01–332. Argued March 19, 2002—Decided June 27, 2002

The Student Activities Drug Testing Policy (Policy) adopted by the Tecumseh, Oklahoma, School District (School District) requires all middle and high school students to consent to urinalysis testing for drugs 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 (OSSAA). Respondent high school students and their parents brought this 42 U. S. C. §1983 action for equitable relief, alleging that the Policy violates the Fourth Amendment. Applying *Vernonia School Dist. 47J* v. *Acton,* 515 U. S. 646, in which this Court upheld the suspicionless drug testing of school athletes, the District Court granted the School District summary judgment. The Tenth Circuit reversed, holding that the Policy violated the Fourth Amendment. It concluded that before imposing a suspicionless drug testing program a school must demonstrate some identifiable drug abuse problem among a sufficient number of those tested, such that testing that group will actually redress its drug problem. The court then held that the School District had failed to demonstrate such a problem among Tecumseh students participating in competitive extracurricular activities.

Held: Tecumseh's Policy is a reasonable means of furthering the School District's important interest in preventing and deterring drug use among its schoolchildren and does not violate the Fourth Amendment. Pp. 4–14.

(a) Because searches by public school officials implicate Fourth

Amendment interests, see *e.g., Vernonia,* 515 U. S., at 652, the Court must review the Policy for "reasonableness," the touchstone of constitutionality. In contrast to the criminal context, a probable cause finding is unnecessary in the public school context because it would unduly interfere with maintenance of the swift and informal disciplinary procedures that are needed. In the public school context, a search may be reasonable when supported by "special needs" beyond the normal need for law enforcement. Because the "reasonableness" inquiry cannot disregard the schools' custodial and tutelary responsibility for children, *id.,* at 656, a finding of individualized suspicion may not be necessary. In upholding the suspicionless drug testing of athletes, the *Vernonia* Court conducted a fact-specific balancing of the intrusion on the children's Fourth Amendment rights against the promotion of legitimate governmental interests. Applying *Vernonia*'s principles to the somewhat different facts of this case demonstrates that Tecumseh's Policy is also constitutional. Pp. 4–6.

(b) Considering first the nature of the privacy interest allegedly compromised by the drug testing, see *Vernonia*, 515 U. S., at 654, the Court concludes that the students affected by this Policy have a limited expectation of privacy. 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 *Vernonia* athletes. This distinction, however, was not essential in *Vernonia*, which depended primarily upon the school's custodial responsibility and authority. See, *e.g., id.,* at 665. 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, and all of them have their own rules and requirements that do not apply to the student body as a whole. Each of them must abide by OSSAA rules, and a faculty sponsor monitors students for compliance with the various rules dictated by the clubs and activities. Such regulation further diminishes the schoolchildren's expectation of privacy. Pp. 6–8.

(c) Considering next the character of the intrusion imposed by the Policy, see *Vernonia*, 515 U. S., at 658, the Court concludes that the invasion of students' privacy is not significant, given the minimally intrusive nature of the sample collection and the limited uses to which the test results are put. The degree of intrusion caused by collecting a urine sample depends upon the manner in which production of the sample is monitored. Under the Policy, a faculty monitor waits outside the closed restroom stall for the student to produce a sample and must listen for the normal sounds of urination to guard

against tampered specimens and ensure an accurate chain of custody. This procedure is virtually identical to the "negligible" intrusion approved in *Vernonia*, *ibid.* The Policy clearly requires that test results be kept in confidential files separate from a student's other records and released to school personnel only on a "need to know" basis. Moreover, the test results are not turned over to any law enforcement authority. Nor do the test results lead to the imposition of discipline or have any academic consequences. Rather, the only consequence of a failed drug test is to limit the student's privilege of participating in extracurricular activities. Pp. 8–10.

(d) Finally, considering the nature and immediacy of the government's concerns and the efficacy of the Policy in meeting them, see *Vernonia*, 515 U. S., at 660, the Court concludes that the Policy effectively serves the School District's interest in protecting its students' safety and health. Preventing drug use by schoolchildren is an important governmental concern. See *id.*, at 661–662. The health and safety risks identified in *Vernonia* apply with equal force to Tecumseh's children. The School District has also presented specific evidence of drug use at Tecumseh schools. Teachers testified that they saw students who appeared to be under the influence of drugs and heard students speaking openly about using drugs. A drug dog found marijuana near the school parking lot. Police found drugs or drug paraphernalia in a car driven by an extracurricular club member. And the school board president reported that people in the community were calling the board to discuss the "drug situation." Respondents consider the proffered evidence insufficient and argue that there is no real and immediate interest to justify a policy of drug testing nonathletes. But a demonstrated drug abuse problem is not always necessary to the validity of a testing regime, even though some showing of a problem does shore up an assertion of a special need for a suspicionless general search program. *Chandler* v. *Miller,* 520 U. S. 305, 319. The School District has provided sufficient evidence to shore up its program. Furthermore, this Court has not required a particularized or pervasive drug problem before allowing the government to conduct suspicionless drug testing. See, *e.g., Treasury Employees* v. *Von Raab,* 489 U. S. 656, 673–674. The need to prevent and deter the substantial harm of childhood drug use provides the necessary immediacy for a school testing policy. 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. Pp. 10–14.

242 F. 3d 1264, reversed.

THOMAS, J., delivered the opinion of the Court, in which REHNQUIST,

C. J., and SCALIA, KENNEDY, and BREYER, JJ., joined. BREYER, J., filed a concurring opinion. O'CONNOR, J., filed a dissenting opinion, in which SOUTER, J., joined. GINSBURG, J., filed a dissenting opinion, in which STEVENS, O'CONNOR, and SOUTER, JJ., joined.