

## **Drug and Alcohol Testing - Transportation Personnel**

The ESD is committed to the establishment of a drug and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The ESD or its transportation provider shall have an in-house drug and alcohol testing program or be a member of a consortium that provides testing that meets the federal regulations, and shall annually certify this information to the Oregon Department of Education.

Accordingly, all employees subject to commercial driver's license (CDL) requirements shall be prohibited from:

1. The use of drugs, unless a written prescription from a licensed doctor or osteopath is provided, including a statement advising that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
2. The use of alcohol including:
  - a. While on duty;
  - b. Eight hours before driving, in accordance with Oregon Administrative Rules;
  - c. Eight hours following an accident;
  - d. Consumption resulting in prohibited levels of alcohol in the system.

"Drugs" as used in this policy refer to controlled substances covered by the OTETA, including marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered individuals offered employment with the ESD and ESD employees transferring to positions subject to OTETA shall be required to submit to pre-employment drug testing. Additionally, covered employees will be subject to reasonable suspicion, random and post-accident alcohol and drug testing. Return-to-duty and follow-up testing may also be required.

Pre-employment drug testing costs will be paid for by the ESD. All drug and alcohol testing of ESD employees, including reasonable suspicion, random, post-accident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the ESD. The ESD will comply with collective bargaining agreement provisions.

All offers of employment or transfer to covered positions with the ESD will be made contingent upon testing results. An individual who tests positive for drugs will not be hired or transferred<sup>1</sup>. The offer of employment or transfer will be immediately withdrawn.

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<sup>1</sup>The district may elect to allow an individual who tests positive for drugs to reapply for district employment or transfer to a covered position at a later date. At that time, the individual will again be tested for the presence of drugs. A district employee considered for transfer to an OTETA-covered position who tests positive for drugs will be subject to all district policies and regulations including the district's Drug-Free Workplace policy.

An offer of employment or transfer will also be immediately withdrawn from any individual who refuses drug testing.

Covered employees who, under the ESD's reasonable suspicion, random, post-accident, return-to-duty or follow-up testing program, test positive for drugs or test with a breath alcohol content level of 0.02 or higher, will be subject to immediate disciplinary action up to and including dismissal in accordance with Board policy. Employees who refuse to comply with testing requirements will also be regarded as testing positive for drugs or testing with a breath alcohol content level of 0.02 or higher. Notification of available resources for evaluation and treatment will be made as required by law. Additionally, employees may be subject to CDL prohibitions and penalties under OTETA and applicable Federal Motor Carrier Safety Administration (FMCSA) regulations.

END OF POLICY

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**Legal Reference(s):**

[ORS 657.176](#)

[OAR 581-053-0420\(4\)\(b\)\(B\)\(ii\)](#)

[OAR 581-053-0620\(1\)\(d\)](#)

[OAR 581-053-0220\(3\)\(h\)](#)

[OAR 581-053-0430\(13\),\(14\)](#)

SB 193 (2013)

[OAR 581-053-0230\(9\)\(t\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)

[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317; 49 C.F.R. Parts 40, 382, 391-395 (2006).

**Cross Reference(s):**

GCBD/GDBD - Leaves and Absences