

Drug-Free Workplace

MESD shall provide a drug-free workplace.

1. Definitions

- a. “Controlled substance”: A controlled substance shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other controlled substance as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. Section 812) and regulations at 21 C.F.R. Sections 1308.11-1308.15.
- b. “Alcohol”: Any beverage containing more than one half of one percent alcohol by volume, and very liquid or solid containing alcohol and capable of being consumed by a human being. Alcohol shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
- c. “Conviction”: A finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- d. “Criminal drug statute”: A federal or state criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance or alcohol.
- e. “Drug-free workplace”: A site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.
- f. “Deliver” or “delivery”: The actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, or alcohol, whether or not there is an agency relationship.
- g. “Manufacture”: The production, preparation, propagation, compounding, conversion or processing of a controlled substance, or alcohol, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.
- h. “Possession”: To physically possess or otherwise to exercise dominion or control over a controlled substance or alcohol.

- i. “Remedial action”: A response which attempts to eliminate the negative effect on job performance or the risk of injury.
- j. “Use”: To consume by ingestion, injection, inhalation or any other means, in whole or in part, a controlled substance or alcohol, including being under the influence of either.
- k. “Work site”: Any building, structure, vehicle or property (including parking lots), or part thereof, owned or possessed by MESD or any other location at which an employee is to perform work for MESD.
- l. “Any other location” includes the place of a MESD-sponsored or MESD-approved activity, and the employee’s own vehicle when used to transport students or fellow employees to and from an activity sponsored or approved by MESD and when used to transport fellow employees to and from different work sites following initial arrival at work.

2. Purpose

The purpose of this policy shall be to promote safety, health and efficiency by prohibiting, in the workplace, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.

3. Applicability

This policy applies to all employees, including, but not limited to administrative, confidential, supervisory, licensed, classified, temporary and substitute employees.

4. Prohibitions

- a. An employee shall not, at any time at any MESD worksite, unlawfully manufacture, distribute, delivery, dispense, possess or use a controlled substance or alcohol or drug or alcohol paraphernalia.
- b. No employee shall knowingly sell, market or distribute steroid or performance enhancing substances to students ages 0-21 with whom the employee has contact as part of employee’s duties; or knowingly endorse or suggest the use of such drugs.
- c. The authorized use of a controlled substance, pursuant to a health practitioners prescription and direction, is subject to MESD oversight and remediation when the employee’s use negatively affects job performance or creates a risk of injury to staff, students or other persons.

5. Compliance with Policy

An employee shall, as a condition of employment, abide by the provisions of this policy.

6. Sanctions and Remedies

- a. MESD having reasonable suspicion, under Section 7. of this policy, of employee unlawful actions described in Section 4. shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take action with regard to the employee action which may include transfer, granting of leave with or without pay or suspension with or without pay.

- b. Upon determining that an employee has engaged in selling, marketing or distributing steroids or performance enhancing substances or the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol or within 30 days of an employee's criminal drug statute conviction for a violation occurring in the workplace, MESD shall:
 - (1) Take appropriate action with regard to the employee which may include discipline up to and including discharge; and/or
 - (2) Require satisfactory participation by the employee in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency. Failure to satisfactorily participate in or complete or continue with program requirements shall result in discipline up to and including discharge.

7. Basis for Reasonable Suspicion of Employee Use of Controlled Substance/Alcohol

Reasonable suspicion of employee use of an unlawful controlled substance or alcohol shall be based upon one or more of the following:

- a. Observed abnormal behavior, smell or impairment in mental or physical performance (for example, slurred speech or difficulty walking);
- b. Direct observation of use in the workplace;
- c. The opinion of a medical professional;
- d. Reliable information concerning use in the workplace, with the reliability of information determined by MESD;
- e. A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

8. Employee Assistance Program

An employee having a drug or alcohol problem is encouraged to seek assistance, on a confidential basis, using MESD's Employee Assistance Program.

9. Leave for Participation in Abuse Assistance or Rehabilitation Program

MESD may, upon employee request, grant leave with or without pay to permit an employee to participate in a drug abuse assistance or rehabilitation program.

10. Establishment of Drug-Free Awareness Program

MESD shall establish a drug-free awareness program to inform employees of the:

- a. Dangers of drug abuse in the workplace;
- b. Existence and content of this policy for maintaining a drug-free workplace;
- c. Availability of drug-counseling, rehabilitation and other employee assistance programs; and
- d. Penalties that may be imposed for drug abuse violations occurring in the workplace.

11. Notification by Employee of Conviction

An employee shall notify his/her supervisor of his/her conviction of any criminal drug statute based on conduct occurring in the workplace, as defined above, no later than five days after such conviction.

12. Notification by MESD of Employee Conviction

MESD shall notify the appropriate federal granting or contracting agency of an employee's criminal drug statute conviction for a violation occurring in the workplace no later than 10 days after receiving notice of such conviction.

13. Provision of Copy of Policy to Employees

MESD shall make available to each employee a copy of this policy.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 336.222](#)

[ORS Chapter 475](#)

[ORS 342.721](#)

[ORS 342.723](#)

[ORS 342.726](#)

[ORS 657.176](#)

[ORS 809.260](#)

[OAR 581-022-0416](#)

[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707 (2006); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 85.600 - 85.645 (2006).

Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11 - 1308.15 (2006).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2006).

MESD Policy Cross Reference(s):

EB - Safety Program

EHA - Health Care and Health-Related Information

EI - Risk and Insurance Management

GAB - Position Descriptions

GB - Personnel Policies

GBCBA - Alcohol/Controlled Substance Use

GBE - Staff Health and Safety

GBEDA - Drug and Alcohol Testing - Transportation Personnel

GCN - Evaluation of Staff

GCPD - Discipline and Dismissal of Employees

JECF/GBNA - Hazing/Harassment/Intimidation/Bullying/Menacing