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Drug and Alcohol Testing - Transportation Personnel

The following procedures shall govern the district's drug use and alcohol misuse prevention program:

1. Program Coordinator

The superintendent or designee will be the district's drug use and alcohol misuse prevention program coordinator. The superintendent or designee will coordinate the district's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The superintendent or designee will:

- a. Ensure that all covered employees receive written materials explaining the district's drug and alcohol misuse prevention program requirements including:
 - (1) The district policy and administrative regulations;
 - (2) A contact person knowledgeable about the materials, policy, administrative regulations and the OTETA;
 - (3) Categories of employees covered;
 - (4) Information about the safety-sensitive functions and what period of the workday the employee is required to be in compliance. Safety-sensitive functions shall include such responsibilities as all time on duty waiting to be dispatched, driving time, assisting or supervising loading or unloading, repairing, obtaining assistance or remaining in attendance upon a disabled vehicle. All time spent providing drug and alcohol samples - including travel time to and from the collection or testing site as needed to comply with random, reasonable suspicion; post-accident, return to duty or follow-up testing will also be considered as safety-sensitive functions and will be considered as on time duty;
 - (5) Specific information concerning prohibited conduct;
 - (6) Circumstances under which, employees will be tested;
 - (7) Procedures used in the testing process;
 - (8) The requirement that covered employees submit to drug and alcohol testing, administered in accordance with 49 C.F.R. Part 382;
 - (9) Explanation of what constitutes a refusal to submit to a drug and/or alcohol test;
 - (10) Consequences of violation (e.g., discipline up to and including dismissal as may be required by the district and removal from safety-sensitive functions as required by OTETA) and notification of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of drugs including the names, addresses and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs. Such information will include the consequences for covered employees found to have a breath alcohol concentration rate of 0.02 or greater, but less than 0.04, and for those employees found to have a breath alcohol content level greater than 0.04. Minimally, no driver tested and found to have a breath alcohol

- concentration rate of 0.02 or greater but less than 0.04 shall be permitted to perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test;
- (11) Information on the effects of drug use and alcohol misuse on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem (driver's or coworker's); and available methods of intervening when such problems are suspected, including confrontation, referral to an employee assistance program as available and/or referral to the administration.
- b. Ensure that employees sign statements certifying that they have received the materials;
 - c. Ensure that administrators or their designee (leave supervisor), designated to determine reasonable suspicion, receive at least 60 minutes of drug use training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable drug abuse and alcohol misuse;
 - d. Ensure district compliance with applicable provisions of OTETA's requirements regarding the district's management information system, retention and confidentiality of records;
 - e. Ensure selection of a site with appropriately trained personnel for the collection of specimens for drug testing;
 - f. Ensure selection of a site with a certified breath alcohol technician and evidential breath testing devices for alcohol testing;
 - g. Ensure selection of a laboratory certified by the Department of Health and Services (DHHS) to conduct drug specimen analysis;
 - h. Ensure selection of a qualified medical or osteopathic doctor to serve as a Medical Review Officer (MRO) to verify laboratory drug test results;
 - i. Ensure selection of qualified personnel to provide education and training to employees and supervisors in accordance with employee assistance program requirements as specified in OTETA;
 - j. Ensure the district's drug and alcohol misuse prevention program is maintained in at least outline form, on file and available for inspection at the district office. The district shall maintain the following:
 - (1) The effects and consequences of drug and alcohol use on personal health, safety and the work environment;
 - (2) The manifestations and behavioral changes that may indicate drug and alcohol use or abuse;
 - (3) Documentation of training given to employees and supervisory personnel;
 - (4) Documentation that drug and alcohol training for all covered employees has consisted of at least 60 minutes;
 - (5) Documentation that drug training for all supervisory personnel has consisted of at least 60 minutes.
 - k. Ensure the establishment of clearly defined communication procedures to include the method (e.g., mail, facsimile) and frequency (e.g., monthly, daily, weekly) as well as the authorized individuals to impart and received information to meet the documentation and confidentiality requirements of the OTETA;
 - l. Ensure employee organizations receive written notice of the availability of all pertinent drug and alcohol misuse prevention program information.

2. Pre-Employment Testing

The district shall conduct pre-employment testing as follows:

- a. All offers of employment for position as identified by Board policy and as required by the OTETA will be contingent upon drug and alcohol test results;
- b. Applicants must provide for the release of any prior employer positive drug and alcohol testing results, an subsequent substance abuse professional (SAP) evaluations, return to duty tests and record of any refusal to be tested within the preceding two years;
- c. Release of such information may be by telephone, letters or any other method that ensures confidentiality. The district will maintain a written, confidential record of each past employer contacted;
- d. Prior to being directed by the district to a collection site for drug and alcohol testing, the applicant will be notified that the urine sample collected shall be tested for the presence of drugs and that breath testing shall be conducted for the presence of alcohol;
- e. Failure to report to the collection site for testing within the time frame specified by the district shall constitute a refusal to report for testing and result in immediate termination of employment consideration;
- f. Pre-employment drug and alcohol testing will be paid for by the district;
- g. Tests must indicate less than 0.02 alcohol concentration as required by the OTETA, and negative drug test results;
- h. Such testing will also be required of any employee transferred voluntarily or involuntarily to a position as covered by this policy and the OTETA;
- i. Such testing will also be required of covered employees each time an employee returns to work after a layoff period if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing will not be necessary following a layoff;
- j. The district will notify applicants of the results of the drug and alcohol testing upon request within 60 days of being notified of the disposition of the employment application;
- k. Refusal to submit to drug and alcohol testing and/or to provide for the release of information as required by the district shall result in immediate termination from employment consideration;
- l. The applicant may request a split specimen of the urine sample at his/her own expense. All such requests must be received in writing by the district no later than 72 hours following notification to the applicant of the positive test results. Split specimens will be conducted at a site selected by the district;
- m. The district will not provide exceptions, other than those established by the OTETA, to pre-employment drug and alcohol testing requirements.

3. Post-Accident Testing

The district shall conduct post-accident testing as follows:

- a. It is the responsibility of the employee to report for post-accident drug and alcohol testing as soon as practicable following a motor vehicle accident which occurs while the employee is performing district safety sensitive functions in which there is a fatality or the employee receives a citation for a moving traffic violation in connection with an injury or tow away accident:

- (1) The employee will report to the designated collection site for post-accident drug and alcohol testing as soon as practicable following the occurrence of the accident;
 - (2) If alcohol testing has not been administered within two hours, the district will prepare and maintain on file a record stating the reasons the test was not promptly administered;
 - (3) If alcohol testing is not administered within eight hours, the district will cease attempts to administer an alcohol test and will prepare and maintain on file a record specifying why the test was not administered;
 - (4) If drug testing has not been administered within 32 hours following the accident, the district will cease attempts to administer such tests and will document why the test was not administered;
 - (5) The employee will contact the district official or designee as soon as practicable following the accident giving as much detailed information about the accident as possible (e.g., fatalities, injuries, tow-aways, traffic citation issued, etc.).
- b. The district will provide employees with necessary post-accident testing information, procedures and instructions as part of its employee training program. Additionally, instructions will include locations of drug specimen collection and alcohol testing sites and telephone numbers of district drug and alcohol misuse prevention program coordinator or other district officials to contact;
 - c. The employee shall remain readily available for testing or may be deemed by the district to have refused to submit to testing. Such refusal is treated as if the district received an alcohol test result of 0.04 or greater or received a positive drug test. Nothing in this requirement shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident or to obtain necessary emergency medical care;
 - d. Results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by on-site federal, state and/or local law enforcement officials having independent authority for the test shall be considered to meet necessary requirements provided results of the test are obtained by the district and the tests conform to all applicable federal, state and/or local requirements;
 - e. An employee who is involved in an accident involving a fatality, injury and/or tow-away as described by OTETA is prohibited from using alcohol for eight hours after the accident or until the employee undergoes a post-accident alcohol test, whichever occurs first;
 - f. The employee will inform the district drug and alcohol misuse prevention program coordinator, district official or designee as soon as practicable following the accident.

4. Random Testing

The district shall conduct random drug and alcohol testing annually as follows:

- a. First year testing rates of 25 percent of the average number of conglomerate employee drivers for drugs and 25 percent of the average number of employee drivers for alcohol. Any unfilled covered positions will be included as part of the total number of positions counted by the district for testing rate purposes;
- b. The testing rate will be adjusted annually according to industry rates as established by the Federal Highway Administration;

- c. The testing process shall, in fact, be random. Unless advised otherwise by their consortium, all employees will remain in the pool of drivers for each subsequent period, whether or not they have been chosen for testing in the past;
- d. The selection of employees for random testing shall be made by a scientifically valid method. The process selected by the district will ensure that all employees shall have an equal chance of being tested each time selections are made. The district will use the following system:

Computerized system:

A random number generating program will be loaded into a computer along with the names, employee's social security number, payroll identification number or other comparable identification numbers for the drivers.

- e. All such testing shall be unannounced and dates selected spread reasonably throughout the calendar year to avoid predictability and the perception that testing is "done for the year" ;
- f. Following notification of testing, selected employees shall proceed to the district selected collection site immediately or as soon as practicable;
- g. Employees shall only be tested for alcohol just before the driver is scheduled to perform his/her safely-sensitive function, during or just after performing their function;
- h. Employees off work due to leaves, vacation and layoffs will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and tested as soon as practicable upon return to duty.

5. Reasonable Suspicion Testing

The district shall conduct reasonable suspicion drug and alcohol testing as follows:

- a. The district will test covered employees whenever there is reasonable suspicion to believe that the employee has engaged in drug use or alcohol misuse.
- b. Reasonable suspicion will be based on specific contemporaneous, articulable observations made by a trained supervisor as designated by the district, concerning appearance, behavior, speech or body odors indicated of employee use of drugs or the misuse of alcohol. Observations of drug use may include indications of chronic and withdrawal effects of drugs and noticeable degradation of job performance that may be associated with the use of drugs;
- c. Reasonable suspicion will be confirmed by a second trained supervisor, whenever possible, before testing shall be required;
- d. Hearsay or second hand information is not sufficient to require an employee to submit to testing;
- e. Alcohol testing may be authorized only if observations resulting in reasonable suspicion are made during, just preceding or just after the period of the work day that the employee is required to be in compliance with this policy administrative regulations and the provisions of the OTETA. The observing supervisor is generally prohibited from performing the alcohol test on the employee;
- f. A written record shall be made of the observations leading to a reasonable suspicion drug test and signed by the administrator or his/her designee (leave supervisor) authorized to make such observations within 24 hours of the observed behavior or before the results of the drug test are

- revealed, whichever is earlier. Such documentation is not required for reasonable suspicion alcohol testing;
- g. The district will ensure that the employee under reasonable suspicion is transported to the designated collection or testing site.

6. Referrals Evaluation and Treatment

The district shall provide information related to referrals, evaluation and treatment as follows:

- a. The district shall advise covered employees, who violate the drug and alcohol prohibitions, of referral services available for evaluating and resolving problems associated with the use of drugs and the misuse of alcohol. Such information will include the names, addresses and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs;
- b. An employee who engages in such prohibited conduct shall be evaluated by a substance abuse professional (SAP);
- c. The substance abuse professional (SAP) will determine what assistance if any the employee needs in resolving problems associated with drug use and alcohol misuse;
- d. This requirement applies only to current employees and not to job applicants;
- e. This requirement shall not be interpreted to require the district to provide or pay for any rehabilitation costs or to hold a job open for an employee with or without salary;
- f. Substance abuse professionals (SAPs) as referred to in these administrative regulations means:
 - (1) Licensed physicians with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders;
 - (2) Licensed or certified psychologists, social workers or employee assistance professionals with like knowledge; and
 - (3) Alcohol and drug abuse counselors certified by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC). This does not include state-certified counselors.

7. Return to Duty Testing

Employees, if they continue employment and return to duty, shall comply with the following:

- a. Whenever an employee has previously tested positive for alcohol misuse, the employee must test with an alcohol concentration of less than 0.02;
- b. Whenever an employee has previously tested positive for drug use, the employee must test with a verified negative test result.

8. Follow-Up Testing

Employees, if they continue employment, shall comply with the following:

- a. Follow-up testing will be conducted whenever a substance abuse professional SAP determines that an employee is in need of resolving problems associated with drug use and/or alcohol misuse;
- b. Follow-up alcohol testing will be conducted only when the employee is performing safety sensitive functions, just before or just after the driver has performed safety sensitive functions;
- c. Follow-up drug and alcohol testing will be unannounced. The number and frequency of such tests shall be determined by the substance abuse professional (SAP). Minimally, there shall be:
 - (1) At least six tests in the first 12 months following the driver's return to duty;
 - (2) Testing shall not exceed 60 months from the date of the employee's return to duty. The substance abuse professional (SAP), however, may terminate the follow-up testing at any time after the first six tests if he/she determines the testing is no longer needed.

9. Drug and Alcohol Testing Procedures

The district, in cooperation with contracted collection and testing facilities shall maintain drug and alcohol testing procedures as follows:

- a. Drugs
 - (1) The applicant or employee reports to the district designated collection site and provides positive identification;
 - (2) A urine sample for drug testing is provided. A "split sample" (second urine specimen bottle) is collected;
 - (3) Following completion of a chain of custody form, both specimen bottles certified laboratory for analysis. The second specimen is stored at the laboratory for later testing as may be necessary. Initial testing is performed only on one specimen bottle;
 - (4) Testing results are reported to the district-selected Medical Review Officer (MRO) by mail or electronic transmission. Results may not be given over the phone;
 - (5) Upon verification of a diluted specimen, the applicant or employee will be required to complete a second test;
 - (6) The Medical Review Officer (MRO) will verify both negative and positive testing results;
 - (7) The Medical Review Officer (MRO) will report the verified negative testing results to the district;
 - (8) The Medical Review Officer (MRO) will report verified positive testing results to the applicant or employee, discuss the type of illegal substance found and determine whether there is any valid medical reason for the positive testing results;
 - (9) A verified valid medical reason for a positive testing result will be reported as a negative testing result to the district;
 - (10) If no legitimate medical reason exists for positive testing, the Medical Review Officer (MRO) will report verified positive testing and identity of the substance(s) to the district;

- (11) The employee or applicant may request within 72 hours of a positive test notice that the second specimen sample be tested. Such re-testing costs will be paid for by the employee;
- (12) Unlike the original specimen analyzed for specific levels of controlled substances, the second or split sample is analyzed only for the presence of drugs;
- (13) The Medical Review Officer (MRO) will report results of the re-testing to the employee and the district;
- (14) The Medical Review Officer (MRO) will meet all OTETA requirements including review of chain-of-custody control form, administrative processing of negative testing results, verification of positive testing results and maintenance of confidentiality requirements as may be applicable;
- (15) Detailed drug testing procedures may be obtained by contacting the district's drug and alcohol misuse prevention coordinator or designee.

b. Alcohol

- (1) The applicant or employee reports to the district designated testing site and provides positive identification;
- (2) Under the alcohol testing rule, a positive alcohol test result will be considered positive even if over-the-counter or legally prescribed medicated is involved;
- (3) All testing will be conducted by a properly certified breath alcohol technician and using evidential breath testing devices. Testing may be conducted at a Department of Health and Human Services (DHHS) certified laboratory or other location including mobile facilities equipped for such testing as may meet the requirements of the OTETA, including:
 - (a) The capability to provide printed results in triplicate and assigning unique and sequential numbers visible to both the breath alcohol technician and the applicant or employee before each test and printed out on the result;
 - (b) The capability to provide an "air blank" or test of the ambient air to ensure that it reported zero when no one was breathing into the instrument.
- (4) District supervisors should generally not be used as a breath alcohol technician for covered employees. Under certain circumstances, a properly trained district supervisor may conduct such testing in the absence of another breath alcohol technician;
- (5) The applicant or employee submits to breath testing;
- (6) If the result of the testing indicates an alcohol concentration rate of 0.02 or greater, a second confirmation breath testing is administered at least 15 minutes, but no longer than 20 minutes, after the initial testing;
- (7) The breath alcohol technician will report any invalid tests in which the initial positive test and the confirmation test do not match confirmed positive and negative results to the district;
- (8) Applicant or employee refusal to sign forms as required shall be considered as refusal to be tested;
- (9) The breath alcohol technician will meet all OTETA requirements including such testing procedures. Breath Alcohol Testing form and confidentiality requirements as may be required;

- (10) Detailed alcohol testing procedures may be obtained by contacting the district's drug and alcohol misuse prevention program coordinator or designee.

10. Positive Test Result

When the MRO determines a positive test result is valid, the MRO will report the finding to the Oregon Department of Transportation (ODOT) and the Oregon Department of Education. The person who is the subject of the test results will be notified by ODOT that the person has a right to a hearing to determine whether the test results reported will be placed in the employee's employment driving record.

11. Record Keeping/Record Reporting:

The district shall maintain records of its drug and alcohol misuse prevention program as follows:

a. Records related to the collection process:

- (1) Documents relating to the random selection process;
- (2) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol testing;
- (3) Documents generated in connection with decisions on post-accident testing;
- (4) Documents verifying the existence of an explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing;
- (5) An annual calendar year report summarizing results of the district's drug and alcohol misuse prevention will be prepared and maintained when requested by FMCSA as part of an inspection, investigation, special study or for statistical purposes.
- (6) If alcohol testing is provided directly by the district, include the following additional record keeping requirements:
 - (a) Collection logbooks, if used;
 - (b) Calibration documentation for evidential testing devices; and
 - (c) Documentation of breath alcohol technician training.

b. Records related to a driver's test results, including:

- (1) The district's copy of the alcohol test form, including the test results;
- (2) The district's copy of the controlled substance test chain-of-custody and control form;
- (3) Documents sent by the Medical Review Officer (MRO) to the district;
- (4) Documents related to the refusal of any employee to submit to a drug and/or alcohol testing;
- (5) Documents presented by a driver to dispute the results of a drug and/or alcohol test administered in connection with the requirements of the OTETA.

c. Records related to evaluations as follows:

- (1) Records pertaining to a determination by a substance abuse professional (SAP) concerning a driver's need for assistance;

- (2) Records concerning a driver's compliance with recommendations of the substance abuse professional.
- d. As related to education and training as follows:
- (1) Materials on drug use awareness and alcohol misuse including a copy of the district policy and administrative regulations on drug use and alcohol misuse and related information;
 - (2) Driver's signed receipt of education materials;
 - (3) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and/or alcohol testing based on reasonable suspicion;
 - (4) Certification that any training conducted in compliance with the OTETA meets all pertinent requirements for such training.