

Drug and Alcohol Testing - Transportation Personnel

The district is committed to the establishment of a drug use and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The district 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.

General

This policy applies to district employees which requires the possession of a commercial driver's license, performing safety-sensitive functions or transportation functions either as a regular, substitute, temporary employee, or contractor. A safety-sensitive function is any dispatching function, bus driving function, mechanic and fueling function at any time.

The district is dedicated to providing safe and dependable service for the students of the district, to the patrons of the district, and a healthy and satisfying working environment for its employees.

In meeting these goals, it is the district's policy to:

1. Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
2. Create a work place environment free from the adverse effects of drug and alcohol substance abuse or misuse;
3. Encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

Purpose

The purpose of this policy is to assure worker fitness for duty and to protect students, employees, patrons and the public from risks posed by the use of alcohol and prohibited drugs.

This policy is intended to:

1. Implement the Board directive of "zero tolerance" for alcohol misuse and substance abuse.
2. Comply with all applicable federal regulations and meet all applicable requirements of the Federal Highway Administration controlled substances and alcohol testing rules.

3. Adopt the Federal Highway Administration and U.S. Department of Transportation mandated urine drug testing and breath analysis alcohol testing for safety-sensitive positions according to the standards set forth in those regulations.

Prohibited Conduct

The alcohol and controlled substance-related activities indicated below are prohibited for employees required to possess a commercial drivers license as part of their job responsibilities, or who are employed in safety-sensitive positions.

1. The possession or use of drugs, at any time, unless a written prescription from a licensed doctor or osteopath is provided;
2. The possession or use of alcohol
 - a. While on duty;
 - b. Within eight hours before performing a safety-sensitive function;
 - c. Within eight hours following an accident while performing a safety-sensitive function; and
 - d. Resulting in prohibited levels of alcohol in the employee's body while performing a safety-sensitive function.

Drugs as used in this policy refers to any narcotic, hallucinogenic drug, amphetamine, barbiturate, marijuana, cocaine, or phencyclidine, or any other controlled substance as defined in Sections I through V of the Controlled Substances Act, 21 U.S.C. & 812, as admitted, and further defined by 21 CFR 1300. II - 1 300.1 5. The use of marijuana, which is a schedule I controlled substance under Federal law, is expressly prohibited under this policy even if its medical use is authorized under state law.

Consequences

Violations shall result in appropriate directive action ranging from removal from the performance of safety-sensitive functions, up to and including discharge.

Covered employees who, under the district's reasonable suspicion, random, postaccident, 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 the OTETA and applicable Federal Motor Carrier Safety Administration (FMCSA) regulations.

Testing Requirements

The following are the occasions on which the driver shall be subject to alcohol or controlled substance testing.

1. **Pre-Employment Testing.** All covered applicants and employees shall be subjected to pre-employment/pre-duty drug testing.
2. **Post-Accident Testing.** Any employee involved in an on-duty accident, as defined by the Federal Highway Administration, shall be tested for alcohol and controlled substances. Accident, for purposes of this policy, is an incident involving an employee whose job responsibilities require a commercial driver's license (CDL) in which there is either a fatality; or the employee received a citation under state or local law for a moving traffic violation arising from the accident within 32 hours and any injury to any party requiring medical treatment; or any vehicle must be towed from the scene.
3. **Random Testing**
 - a. Annually, the District will arrange for the unannounced random alcohol and controlled substance testing of its safety-sensitive employees.
 - b. At least 50 percent of the district's safety-sensitive employees must be randomly selected for controlled substance testing each year and at least 25 percent of its safety-sensitive employees for alcohol testing or as adjusted by the Federal Highway Administration for years after 1996.
 - c. Alcohol testing in this program shall take place prior to, during, or immediately after the person being tested, engages in a safety-sensitive function for the district.
4. **Reasonable Suspicion Testing.** A safety-sensitive employee must submit to alcohol or controlled substance testing whenever a designated observer has a reasonable suspicion of alcohol misuse or controlled substance use based on specific, contemporaneous and articulable observations concerning the appearance, behavior, speech or bodily odors of the safety-sensitive employee.

Observations relating to using alcohol must be made just prior to, during or immediately after the employee engages in a safety-sensitive function for the district, and the alcohol test must be given within eight hours following the determination of reasonable suspicion.
5. **Return to Duty Testing.** If at the discretion of the district, a safety-sensitive employee is to be returned to performing safety-sensitive functions after violating this policy or the federal regulations, the employee shall be evaluated by a substance abuse professional (SAP) who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and the use of controlled substances.

Before an employee is returned to performing safety-sensitive functions for the district following a violation of this policy and/or the federal regulations, the employee shall undergo a return to duty alcohol and/or controlled substance test resulting in an alcohol concentration below or a negative controlled substance test.

6. **Follow-Up Testing.** Any employee that continues performing safety-sensitive functions for the district, following a determination that the employee requires assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances, shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by an SAP and in compliance with FHW regulations.

The superintendent is directed to establish and implement procedures for conducting tests and administering the provisions of this policy as consistent with the federal rules.

Record Retention and Reporting

The superintendent is responsible for and directed to develop procedures for securely retaining records collected under this policy with controlled access for the time periods established by the federal regulations, and to develop procedures for reporting data collected under this policy as required by federal regulations.

Education, Training and Referral Services

The superintendent shall develop procedures and educational material that explain the requirements of this policy and the federal program. The educational material shall be distributed to each safety-sensitive employee prior to the start of the testing program and to each safety-sensitive employee subsequently hired or transferred into a position covered by this policy. Each employee, after receiving a copy of the materials, shall sign a certificate of receipt and the district shall maintain the original of the receipt.

The collective bargaining representative of the employees, if any, shall be notified of the availability of this information. The educational materials shall include:

1. A copy of this policy and the applicable administrative rule.
2. The name of the person designated to answer questions about materials.
3. The categories of employees covered by this policy.
4. A description of safety-sensitive functions so that employees will know which part of their tasks will be covered by this policy.
5. A specific description of conduct prohibited by this policy and the federal program.
6. The circumstances in which an employee is subject to testing.
7. The procedures used in the testing program, including those that protect the employee and the integrity of the testing processes, the validity of the test results, and that ensure those results are attributed to the correct employee.
8. The requirement that the employee must submit to testing required by this policy and the federal program, and a description of what constitutes refusal to submit to required testing and the consequences of refusal.

9. The consequences for employees who violate this policy and the federal program, including immediate removal from conducting safety-sensitive functions.
10. The consequences for employees found to have alcohol concentrations between 0.02 and 0.04.
11. Information about the effects of alcohol and controlled substances on an individual's health, work and personal life and methods of intervening when a problem with alcohol or controlled substance is suspected, including confrontation, referral to staff assistance program and referral to management.

Training of Observers

The superintendent is directed to develop procedures for training observers to determine if reasonable suspicion exists that an employee is under the influence of alcohol or controlled substance, such training to include at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on use of controlled substances, and the physical, behavioral, speech and performance indicators of probable alcohol misuse and the use of controlled substances.

Employee Assistance

An employee who violates this policy or the federal regulations, shall be informed of resources available for evaluation and resolving problems associated with misuse of alcohol and the use of controlled substances, including the names, addresses, and telephone numbers of SAP and counseling and treatment programs. The costs incurred by the employee for evaluation and/or rehabilitation are the employee's responsibility.

END OF POLICY

Legal Reference(s):

ORS 657.176	OAR 581-053-0420(4)(b)(B)(ii)	OAR 581-053-0620(1)(d)
	OAR 581-053-0430(13),(14)	
OAR 581-053-0220(3)(h)	OAR 581-053-0531(12),(13)	SB 193 (2013)
OAR 581-053-0230(9)(t)	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):

EEACA - School Bus Driver Examination and Training
 GCBD/GDBD - Leaves and Absences