

Drug-Free Workplace

The district shall provide a drug-free workplace. The authorized use of a controlled substance by an employee at any district work site is not prohibited. The authorized use of a controlled substance by an employee at any district work site is subject to remedial action by the district where such use negatively affects job performance or creates a risk of injury to any person.

Remedial action may be corrective, not disciplinary, in nature, although suspension may be included in the action and discharge may result where an employee fails to comply with the action or correct the effect on job performance or risk of injury.

Definitions

1. "Alcohol" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being;
2. "Authorized" means:
 - a. That a person who manufactures or delivers a controlled substance must be registered with the State Board of Pharmacy; or
 - b. That a person who possesses or uses a controlled substance must have a prescription that allows such possession or use;
3. Controlled substance – A controlled substance shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other controlled substance."Controlled substance" means a drug or its immediate precursor as described in Oregon Revised Statutes;
4. 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.
5. Criminal drug statute – A federal or state criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance or alcohol.
6. "Deliver" or "delivery" means 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;
7. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, or 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;

8. “Possession” means to physically possess or otherwise to exercise dominion or control over a controlled substance or alcohol;
9. “Remedial action” is a response which attempts to eliminate the negative effect on job performance or the risk of injury;
10. “Use” means 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;
11. “Work site” means any building, structure, vehicle or property (including parking lots), or part thereof, owned or possessed by the district or any other location at which an employee is to perform work for the district. “Any other location” includes the place of a district-sponsored or district-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 the district and when used to transport fellow employees to and from different work sites following initial arrival at work.

Purpose

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

Applicability

This policy applies to all employees.

Prohibitions

An employee shall not, in the workplace, manufacture, distribute, dispense, possess (to include possession by consumption), be under the influence of, or use a controlled substance or alcohol, except as authorized by Oregon Revised Statutes.

No district employee shall knowingly sell, market or distribute steroid or performance enhancing substances to kindergarten through grade 12 students with whom the employee has contact as part of employee’s district duties; or knowingly endorse or suggest the use of such substances.

Compliance with Policy

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

Sanctions and Remedies¹

1. The district, upon determining that an employee has engaged in the manufacture, distribution, dispensation or possession of a controlled substance or alcohol or upon having reasonable suspicion, under Section VII of this policy, of employee use of a controlled substance or alcohol in the

¹Districts receiving grants or contracts of \$25,000 or more from the federal government are required to meet this obligation.

workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take action with regard to the employee determined to be appropriate which may include transfer, granting of leave with or without pay or suspension with or without pay or discharge.

2. Within 30 days of an employee's criminal drug statute conviction for a violation occurring in the workplace, the district shall:
 - a. Take action with regard to the employee determined to be appropriate which may include discipline up to and including termination; and/or
 - b. 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.
3. An employee who violates this policy is subject to disciplinary action, including suspension and discharge. Such violations may also disqualify an employee from unemployment compensation benefits.

Basis for Reasonable Suspicion of Employee use of Controlled Substance/Alcohol

Reasonable suspicion of employee use of a controlled substance or alcohol shall be based upon any of the following:

1. Observed abnormal behavior or impairment in mental or physical performance (for example, slurred speech or difficulty walking);
2. Direct observation of use in the workplace;
3. The opinion of a medical professional;
4. Reliable information concerning use in the workplace, the reliability of any such information shall be determined by employer;
5. A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

An employee having a drug or alcohol problem is encouraged to seek assistance, on a confidential basis, under the Employee Assistance Program if such program is provided by the employer.

Leave for Participation in Abuse Assistance or Rehabilitation Program

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

Establishment of Drug-Free Awareness Program

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

1. Dangers of drug abuse in the workplace;
2. Existence of and content of this policy for maintaining a drug-free workplace;

3. Availability of drug-counseling, rehabilitation and employee assistance programs; and
4. Penalties that may be imposed for drug abuse violations occurring in the workplace.

Notification by Employee Conviction

An employee shall, as a condition of employment, notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

Notification by District of Employee Conviction

The district 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.

Provision of Copy of Policy to Employees

The district shall provide to each employee a copy of this policy through the district web site and referenced in the employee handbook.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 336.222](#)
[ORS 342.721](#)
[ORS 342.723](#)

[ORS 342.726](#)
[ORS Chapter 475](#)
[ORS 657.176](#)

[OAR 581-022-0413](#)
[OAR 581-022-0416](#)
[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2016); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670 (2016).

Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2016).