

Philomath School District 17J

Code:
Adopted:

GBEC

Drug-Free Workplace *

The district shall provide a drug-free workplace.

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

This policy applies to all employees, including but not limited to, those exempt, unclassified, management service, classified and temporary employees who are paid directly or indirectly from funds received under a federal grant or contract.

The district shall provide to each employee a copy of this policy.

An employee shall not unlawfully manufacture, distribute, dispense, possess or use a controlled substance or alcohol in the workplace.

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.

An employee shall, as a condition of employment, abide by the provisions of this policy.¹

Definitions

1. "Controlled substance" shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other drug as classified under the federal Controlled Substances Act, as modified under Oregon Revised Statute (ORS) 475.035.
2. "Alcohol" shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
3. "Conviction" means 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.
4. "Criminal drug statute" means a Federal or State criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance [or alcohol].

¹ Districts directly receiving grants or contracts from the federal government are required to meet this obligation.

5. “Drug-free workplace” means 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].

Sanctions and Remedies²

The district, upon determining that an employee has engaged in the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol, or upon having reasonable suspicion (under the section below) of an employee’s unlawful use of a controlled substance or alcohol in the workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take appropriate action, which may include transfer, granting of leave with or without pay or suspension with or without pay.

Within 30 calendar days of learning of an employee’s criminal drug statute conviction for a violation occurring in the workplace, the district shall:

1. Take appropriate action, which may include discipline up to and including termination; 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.

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 any of the following:

1. Observed abnormal behavior or impairment in mental or physical performance (e.g., slurred speech, 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.

Employee Assistance Program

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.

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.

² Ibid. p. 1

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 of Conviction³

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

Notification by the District of an Employee Conviction

The district shall notify the appropriate federal granting or contracting agency, in writing, of an employee's criminal drug statute conviction, for a violation occurring in the workplace, no later than 10 calendar days after learning of such conviction.

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 581-022-2045
OAR 581-022-2210
OAR 584-020-0040(5)(e)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); 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 (2012).

³ Ibid. p. 1

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Code: GBEC-AR
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Drug Free Workplace

(See proposed policy)

1. "Alcohol" shall include any form of alcohol for consumption, including beer, wine, wine coolers or distilled liquor as defined in Oregon Revised Statutes law.
2. "District" as used in these Rules and Regulations, means the Philomath School District, acting by and through its superintendent or the superintendent's designated directors, administrators or supervisors.
3. "Drugs" shall mean, for the purposes of these Rules & Regulations, any illegal drug or controlled substance, including any narcotic drug, hallucinogenic drug, amphetamine, barbiturate or marijuana as defined in Oregon Revised Statutes law.
4. "Workplace" shall mean the site of the employee's work during the time they are on duty. This includes any school building or the school premises; any district-owned vehicle or any other district-approved vehicle used to transport students and/or fellow workers to and from different work sites, or to and from school or school activities; off school property at any district sponsored or district approved activity, event, or function (such as a field trip or athletic event where students are under the jurisdiction of the school district); or during any period of time such employee is supervising students on behalf of the school district, or otherwise engaged in school business.

Standards of Conduct

All district employees are expected to recognize that, as adults with extensive contact with students as part of their jobs, they must conduct themselves as appropriate role models for students.

1. While tobacco use is not included in this policy, we recognize its harmful effects and will expect employees to provide appropriate role models by not smoking.
2. No District employee shall possess, purchase, sell, manufacture, distribute, dispense, store, or use alcohol or drugs as defined herein, or attempt to do so, regardless of quantity, in the workplace. While in the workplace, employees shall not be under the influence of controlled substances, except as prescribed by a physician. Employees are prohibited from engaging in criminal conduct regarding drugs both on and off the workplace. An employee who violates this rule is subject to disciplinary action, including suspension and discharge. Such violations may also disqualify an employee from unemployment compensation benefits.
3. Any employee who pleads guilty or no contest to, or who is convicted of, any violation of any federal or state criminal drug statute occurring in the workplace is required to notify the superintendent no later than five (5) days after such conviction.
4. Prior to proof of involvement with alcohol or drugs in the workplace, any employee may request sick leave or leave without pay for necessary treatment related to his/her drug or alcohol problem. The request will be treated confidentially as a medical problem, rather than a disciplinary issue.

Drug Free Workplace – GBEC-AR

5. While the district's primary purpose is to provide assistance for employees, having drugs or alcohol in the workplace will not be tolerated. An employee who has been found guilty of drug or alcohol use in the workplace will be subject to disciplinary action including possible dismissal, suspension, and/or mandatory referral to a treatment program.
6. Principals and/or supervisors annually will provide employees with the following information:
 - a. The dangers of drug and alcohol abuse, in and outside of the workplace;
 - b. The terms of this district policy;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs;
 - d. The penalties an employee can incur for any infraction of this policy.

District Action

As a condition of employment with the district, all employees are required to abide by the terms of this policy and implementing administrative rules. Such rules must be consistent with the policy and the parties' collective bargaining agreement.

1. Non-Disciplinary Action

When an employee brings to the district's attention, that he/she has a substance abuse problem, the district shall support the employee's desire for rehabilitation by providing unpaid leave or accumulated paid sick leave, as applicable under law and collective bargaining agreements, for treatment in a drug/alcohol abuse assistance or rehabilitation program approved by the Office of Alcohol and Drug Abuse Programs (Oregon Department of Human Resources Services). When the employee successfully completes the treatment program and the treatment provider releases the employee to return to work, the district will reinstate the employee.

2. Disciplinary Action

- a. Any employee who violates the terms of the school district's drug and alcohol policy may be subjected to appropriate disciplinary action(s), including reprimand, suspension, non-renewal or termination of employment. Such violations may also disqualify an employee from unemployment compensation benefits.
- b. The district reserves the right to conduct searches of district property, vehicles or equipment at any time.
- c. Disciplinary action short of termination may include a requirement that the employee satisfactorily complete a drug/alcohol abuse treatment program approved by the Board. Failure to satisfactorily complete an approved treatment program may result in the employee's suspension or termination of employment.

Corrected 5/2/19

Philomath School District 17J

Code: GBEDA
Adopted: 1/21/14
Orig. Code: GBEDA

Drug and Alcohol Testing -- Transportation Personnel

~~(Does the district run its own transportation or do they contract out? If you contract out this policy is not needed.)~~ Keep because district has staff required to have CDL

In a continuing effort to prevent accidents and injuries resulting from the use of drugs and misuse of alcohol by drivers of commercial motor vehicles, the district shall establish a drug and alcohol misuse prevention program. 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.

The district's program shall meet the requirements of the Omnibus Transportation Employee Testing Act of 1991.

The superintendent will develop administrative regulations as needed to implement the district's program including such provisions for pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up testing as may be necessary. The regulations will include training, education and other assistance to employees to promote a drug- and alcohol-free environment.

END OF POLICY

Legal Reference(s):

.176
.415
.418

-0220(3)(b)
-0230(9)(c)
-0420(4)(b)(B)(ii)
-0430(13),(14)

-0531(12),(13)
-0615(2)(c)(D)(ii)
-0620(1)(d)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012); 49 C.F.R. Parts 40, 382, 391-395 (2017).

Corrected 5/2/19

Philomath School District 17J

Code: GBEDA-AR
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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 will be designated as the district's drug use and alcohol misuse prevention program coordinator. The superintendent 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 will:

- a. Ensure that all covered employees receive written materials explaining the district's drug use 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 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 on-duty time 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 on-duty time;
 - (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 violations (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 supervisors **or their designee**, designated to determine reasonable suspicion receive at least 60 minutes of drug abuse training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable drug use 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 Human 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 use 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) Information on the effects and consequences of drug and alcohol use on personal health, safety and the work environment;
 - (2) Information on the manifestations and behavioral changes that may indicate drug and alcohol use or abuse;
 - (3) Documentation that drug training for all supervisory personnel has consisted of at least 60 minutes;
 - (4) Documentation that alcohol training for all supervisory personnel has consisted of at least 60 minutes;
 - (5) Documentation of training given to employees.
- 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 receive information to meet the documentation and confidentiality requirements of OTETA;
- l. Ensure employee organizations receive written notice of the availability of all pertinent drug use and alcohol misuse prevention program information;
- m. Ensure compliance with stand-down prohibitions as set forth by OTETA. "Stand-down" means the practice of temporarily removing an employee from the performance of safety-sensitive functions, based on a report from a laboratory to the MRO of a confirmed positive

test for a drug or drug metabolite, an adulterated test or a substituted test, before the MRO has completed verification of the test results. The district will not stand-down employees, except as provided by the Federal Motor Carrier Safety Administration (FMCSA) below:

- (1) The district may seek a waiver of the prohibition against standing down an employee;
- (2) Requests which include all required information will be submitted to FMCSA for approval.

2. Pre-employment Testing

The district shall conduct pre-employment testing as follows:

- a. All offers of employment for positions as identified by Board policy and as required by OTETA will be contingent upon drug and alcohol test results;
- b. Individuals offered employment with the district and employees transferring to positions subject to OTETA contingent on drug and alcohol testing, must provide written consent for the release of any prior employer positive drug and failed alcohol testing results, refusals to be tested, other violations of testing regulations and, with respect to any employee who violated drug and alcohol regulations, documentation of the employee's successful completion of return-to-duty requirements (including SAP evaluations and follow-up tests) within the preceding two years;
- c. The district shall obtain and review such drug and alcohol information from previous employers of the past two years no later than 14 calendar days before the driver is used for the first time. The district will provide the driver's written permission for release of information to the previous employers;
- d. 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;
- e. The district will not use a driver with a positive drug test or a failed alcohol test while employed with a previous employer or who refused to test while under employment with a previous employer unless the driver is in compliance with the SAP's treatment program and OTETA's return-to-duty test requirements;
- f. 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 the breath or saliva sample shall be tested for the presence of alcohol;
- g. 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 withdrawal of the employment or transfer offer;
- h. Pre-employment drug and alcohol testing will be paid for by the district;
- i. Tests must indicate negative drug test results and a breath alcohol content level below a 0.02. Individuals who fail to meet such drug and alcohol requirements will not be hired or transferred voluntarily or involuntarily to covered positions;
- j. 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 or subsequent pre-employment drug and alcohol testing will not be necessary following a layoff;
- k. The district will notify individuals offered employment with the district contingent on drug testing of the results of such testing upon request within 60 days of being notified of the disposition of the employment application;

- I. Refusal to submit to drug and alcohol testing and/or to provide signed permission for the release of past testing information as required by the district shall result in immediate termination from employment or transfer consideration;

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-away, traffic citation issued, etc.).
- b. The district will provide employees with necessary post-accident testing information, procedures and instructions as a part of its employee training program. Additionally, written instructions to follow in the event of an accident will be provided in district vehicles as appropriate. Instructions will include locations of drug specimen collection and alcohol testing sites and telephone number of the district drug use 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 for the period necessary to obtain assistance in responding to the 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.

4. Random Testing

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

- a. Not less than ~~50~~²⁵ percent of the average number of driver positions shall be tested for drugs and not less than 10 percent shall be tested for alcohol in accordance with current minimum random testing requirements of OTETA. Any unfilled, covered positions will be included as part of the total number of positions counted by the district for testing rate purposes.

The district will meet minimum testing rates.

- b. The testing rate may be adjusted by FMCSA based on industrywide data;
- 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, including vacations, holiday periods and summer recesses, 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:

Manual system:

- (1) Individual, identically sized slips of paper or cards with the names or identification numbers of the covered drivers will be used;
 - (2) Cards will be placed into a container from which the required number will be drawn;
 - (3) The individual selected by the district to do the drawing will be unbiased;
 - (4) All names in the pool will be checked prior to the drawing to assure any necessary additions or deletions are made.
- 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.” Districts with six or less covered employees may annually select a single calendar date for random drug and alcohol testing¹. The date selected will be kept confidential to ensure that testing is unannounced as required by law;
 - 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 safety-sensitive function, during or just after performing such function;
 - h. Employees off work due to leave of absence, vacation and layoff 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 but no later than the next selection cycle (e.g., monthly, quarterly, etc.).

¹The next “calendar year date” for random testing starts from the day after the random testing date.

5. Reasonable Suspicion Testing

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

- a. The district will test covered employees when 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 indicative 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. Hearsay or secondhand information is not sufficient to require an employee to submit to testing;
- d. Alcohol testing may be authorized only if observations resulting in reasonable suspicion are made during, just preceding or just after the period of the workday that the employee is required to be in compliance with this policy, administrative regulations and applicable OTETA provisions;
- e. A written record shall be made of the observations leading to a reasonable suspicion drug test and signed by the supervisor **or designee** authorized to make such observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier;
- f. 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 SAPs and counseling and treatment programs;
- b. An employee who engages in such prohibited conduct shall be evaluated by an SAP;
- c. The 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 who refuse testing or who test positive for drugs;
- 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. 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 before they return to duty, shall comply with the following:

- a. When an employee has previously tested greater than or equal to 0.04 for alcohol, the employee must retest (return-to-duty test) with an alcohol concentration of less than 0.02;
- b. When an employee has previously tested positive for drug use, the employee must retest (return-to-duty 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 an 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 unannounced²;
- d. The number and frequency of such tests shall be determined by the SAP. Minimally, there shall be:
 - (1) At least 6 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 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 (e.g., photo ID);
 - (2) A urine sample for drug testing is provided. A "split specimen" (two urine specimen bottles) is prepared from the urine sample;
 - (3) Following completion of a chain-of-custody form, both specimen bottles are forwarded to the DHHS certified laboratory for analysis. The split 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 MRO by mail or electronic transmission. Results may not be given over the phone;
 - (5) The MRO will verify both negative and positive testing results;
 - (6) The MRO will report the verified negative testing results to the district;

²A follow-up test shall not also serve as a random test, and vice versa.

- (7) The 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;
- (8) A verified valid medical reason for a positive test result will be reported as a negative test result to the district;
- (9) If no legitimate medical reason exists for positive drug testing, the MRO will report a confirmed positive test result and identity of the substance(s) to the district;
- (10) The employee or applicant may request within 72 hours of a positive test notice that the split specimen (second bottle) be screened. Such screening costs will be paid for by the employee;
- (11) Unlike the original specimen analyzed for specific levels of controlled substances, the split specimen is analyzed only for the presence of drugs;
- (12) The MRO will report results of the second screening to the employee and the district;
- (13) The MRO will meet all OTETA requirements including review of chain-of-custody control form, administrative processing of negative test results, verification of positive testing results and maintenance of confidentiality requirements as may be applicable;
- (14) Detailed drug testing procedures may be obtained by contacting the district's drug use and alcohol misuse prevention coordinator or designee.

b. Alcohol

- (1) The employee reports to the district-designated testing site and provides positive identification;
- (2) Under the alcohol testing rule, an alcohol test result will be considered failing even if over-the-counter or legally prescribed medication is involved;
- (3) All alcohol screening tests will be conducted by a qualified breath alcohol technician using evidential breath testing devices.
- (4) Testing may be conducted at a DHHS certified laboratory or other location including mobile facilities equipped for such testing as may meet the requirements of OTETA;
- (5) District supervisors should generally not be used as a breath alcohol or screening test technician for covered employees. Under certain circumstances, a properly trained district supervisor may conduct such testing in the absence of another technician;
- (6) The employee submits to breath or saliva testing;
- (7) If the result of the testing indicates an alcohol concentration rate of 0.02 or greater, a confirmation breath test is administered after at least 15 minutes, but no longer than 30 minutes, after the initial testing. All confirmation tests will be conducted using evidential breath testing devices;
- (8) The technician will report any invalid tests, confirmed failing and passing results to the district;
- (9) Employee refusal to sign forms as required (i.e., Step 2 on the Alcohol Testing Form) shall be considered as refusal to be tested;
- (10) The breath alcohol or screening test technician will meet all OTETA requirements including such testing procedures, Alcohol Testing Form and confidentiality requirements as may be required;
- (11) Detailed alcohol testing procedures may be obtained by contacting the district's drug use 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 use 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 use and alcohol misuse prevention program will be prepared and maintained when requested by FMCSA as part of an inspection, investigation, special study or for statistical purposes.

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

- (1) The district's copy of the alcohol testing form, including the test results;
- (2) The district's copy of the controlled substance test custody and control form;
- (3) Documents sent by the MRO to the district;
- (4) Documents related to the refusal of any employee to submit to 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 OTETA.

c. Records related to evaluations as follows:

- (1) Records pertaining to a determination by an SAP concerning his/her evaluation of a covered employee who tested positive for drugs, or failed an alcohol test or refused to test;
- (2) Records concerning a driver's compliance with recommendations of the SAP.

d. Records related to education and training as follows:

- (1) Materials on drug use awareness and alcohol misuse including a copy of the district's 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 OTETA meets all pertinent requirements for such training.
- e. Records related to alcohol and drug testing as follows:
- (1) Agreements with collection site facilities, laboratories, MROs and consortia (includes breath alcohol technicians, screening test technicians and third-party providers), as applicable;
 - (2) Names and positions of officials and their role in the district's drug and alcohol testing program(s);
 - (3) Semiannual laboratory statistical summaries of urinalysis as required by OTETA and as reported by the laboratory. The district will document laboratory failures to provide statistical summaries and any district follow-up efforts to obtain such reports.
- f. Records will be retained by the district as follows:
- (1) Five Years:
 - (a) Records of employee alcohol-testing results with results indicating an alcohol concentration of 0.02 or greater;
 - (b) Records of verified positive drug testing results;
 - (c) Documentation of refusals to take required drug and/or alcohol tests;
 - (d) Drug testing custody and control forms;
 - (e) Employee evaluation and referrals;
 - (f) A copy of each annual calendar year report summary.
 - (2) Two Years:

Records related to the drug and alcohol collection process (except calibration of evidential breath testing devices).
 - (3) One Year:

Records of negative and cancelled drug-testing results and alcohol test results with a concentration of less than 0.02.
 - (4) Indefinite Period:

Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors and drivers shall be maintained by the district while the individual performs the functions which require training and for two years after ceasing to perform those functions.

g. Records will be maintained in a secure location with controlled access to ensure confidentiality requirements are met as follows:

- (1) Drug use and alcohol misuse prevention program records will be maintained at the district office. Records relating to individual employee drug and/or alcohol testing, evaluation and treatment will be maintained separately from the employee's personnel file;
- (2) Employees are entitled upon written request to obtain copies;
- (3) The district may disclose information in connection with employee benefit proceedings, Department of Transportation agency action against an employee or National Transportation Safety Board safety investigations;
- (4) The district shall disclose such information to subsequent employers upon written request from the employee (in accordance with 49 C.F.R. § 382.413(a)(1))³.

Corrected 5/2/19

³Information that must be disclosed to subsequent employers, upon receipt of proper authorization form/release signed by the employer's ex-driver: (a) Failed alcohol tests (breath alcohol content of 0.04 or greater); (b) Verified positive drug test; (c) Refusals to test.



Philomath School District 17J

Code: GBG
Adopted:

Staff Participation in Political Activities

(Would this policy be beneficial to the district?)

Employees may exercise their right to participate fully in affairs of public interest on a local, county, state and national level on the same basis as any community member in a comparable position in public or private employment and within the law.

All district employees are privileged within the limitations imposed by state and federal laws and regulations to choose any side of a particular issue and to support their viewpoints as they desire by vote, discussion or persuading others. Such discussion and persuasion, however, will not be carried on during the performance of district duties, except in open discussion during classroom lessons that consider various candidates for a particular office or various sides of a particular political or civil issue.

On all controversial issues, employees must designate that the viewpoints they represent on the issues are personal and are not to be interpreted as the district's official viewpoint.

No employee will use district facilities, equipment or supplies in connection with his/her political activities, nor will he/she use any time during the work day for such political activities.

END OF POLICY

Legal Reference(s):

ORS Chapter 244

ORS 260.432

OR. CONST., art. XV, § 8.

Corrected 5/2/19

