

Drug-Free Workplace Procedures

Definitions:

1. "Alcohol" as used in this procedure means any form of alcohol for consumption as now or hereafter defined by Oregon Revised Statutes, including beer, wine, wine coolers, or distilled liquor.
2. "ESD" as used in this procedure means the ESD, acting by and through its Superintendent or the Superintendent's designated program administrators. If the context herein requires reference to the "ESD" regarding reporting, providing, advising, or giving of any information unless provided otherwise herein, it may be satisfied by doing so to the employee's immediate supervisor.
3. "Conviction" means a finding of guilt (including a plea of no contest) or imposition of a 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 a controlled substance or alcohol.
5. "Drug Free Workplace" means a site for the performance of work at which the employees are prohibited from engaging in unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.
6. "Controlled substances" for the purpose of this procedure means any illegal drug or controlled substance as defined now or hereafter under the Uniform Controlled Substance Act, including but not limited to any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, or marijuana.
7. "Workplace" for the purpose of this procedure means the site for the performance of work done for the ESD. "Workplace" includes all real property, facilities, and structures used by employees in the performance of work for the ESD, any vehicle owned by the ESD or any other vehicle, including an employee's own vehicle; when used for ESD purposes approved by the ESD and any event or function sponsored or approved by the ESD, involving students who are under the jurisdiction and control of the ESD, such as a field trip, athletic event, or the like.

A. Controlled Substances and Alcohol in the Workplace

1. No employee shall possess, purchase, sell, manufacture, distribute, dispense, or use any alcohol or controlled substance in the workplace or attempt to do so.
2. Employees shall, as a condition of employment, notify the ESD in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 calendar days after such a conviction.

3. The ESD 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 receiving notice of such conviction.
4. Any employee who is aware of the use or the presence of controlled substances or alcohol in the workplace is expected to bring such information to the immediate attention of the ESD. No employee will be discharged, demoted, suspended, or in any manner discriminated against for disclosing information concerning wrongdoing in the workplace.
5. Any supervisor of the ESD who becomes aware of an employee's activity involving controlled substances or alcohol in the workplace as set forth and described in this procedure shall immediately and no later than the next regular workday, report such information to the superintendent or designee.

B. Notice

1. The ESD shall establish a drug free awareness program to inform employees of:
 - (a) The dangers of controlled substance abuse and alcohol abuse in the workplace;
 - (b) The provisions of the Drug-Free Workplace policy and this administrative procedure;
 - (c) The availability of drug counseling, rehabilitation; and employee assistance programs; and
 - (d) The penalties an employee may incur for a violation of the Drug- Free Workplace policy or this administrative procedure.

C. Sanctions and Remedies

1. As a condition of employment with the ESD, all employees are required to abide by the terms and provisions of the Drug-Free Workplace policy and this administrative procedure.
2. When there is reasonable suspicion to believe that an employee may be under the influence of a controlled substance or alcohol, the ESD may, as part of its investigation, require the employee to submit to a physical examination or drug or alcohol testing.

The failure or refusal of an employee to submit to such a physical examination or drug or alcohol testing will be considered insubordination, and may be grounds for disciplinary action up to and including the employee's discharge.
3. The ESD reserves the right, with prior notice and reasonable suspicion, to search the ESD property of employees. A refusal to submit to a search may result in disciplinary action, up to and including discharge.
4. If the ESD determines 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.

5. If the ESD determines that an employee has violated the Drug-Free Workplace policy or this administrative procedure, regardless of whether the employee has been charged with or convicted of criminal activity, the employee shall be subject to disciplinary action up to and including dismissal.

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

1. Take appropriate action, which may include discipline up to and including dismissal; 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 the following non-exhaustive list:

1. Odor of Alcohol
2. Observed abnormal behavior or impairment in mental or physical performance (e.g., slurred speech, difficulty walking);
3. Direct observation of use in the workplace;
4. The opinion of a medical professional;
5. Reliable information concerning use in the workplace, the reliability of any such information shall be determined by the employer;
6. In conjunction with a basis for reasonable suspicion as listed above, an employee's involvement in a work-related accident or incident that injures, threatens to injure, or in the discretion of the ESD, could have injured any employee of the ESD or the individual, or which causes, threatens to cause or could have caused property damage to the ESD or any other person.

D. Employee Assistance Programs and Leave for Participation in a Drug or Alcohol Treatment Program

1. An employee having a drug or alcohol problem is encouraged to seek assistance on a confidential basis under the Employee Assistance Program.
2. Upon the request of an employee, the ESD may grant a leave of absence without pay to permit the employee to participate in a drug or alcohol treatment program.