

Drug-Free Workplace

The ESD 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 ESD 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 ESD 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 ESD duties; or knowingly endorse or suggest the use of such drugs.

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

Definitions

1. "Controlled substance" A 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 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.
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.

^a ESDs directly receiving grants or contracts from the federal government are required to meet this obligation.

Sanctions and Remedies^b

The ESD, 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. Employees may be subject to drug testing upon reasonable suspicion that the employee has violated this policy.

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 termination; and/or

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);

Direct observation of use in the workplace;

The opinion of a medical professional;

Reliable information concerning use in the workplace, the reliability of any such information shall be determined by the employer;

A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

The ESD reserves the right, with prior notice and reasonable suspicion, to conduct searches on district property of the employees and/or their personal property which is on the district's premises.

The ESD also reserves the right, with prior notice and reasonable suspicion, to conduct searches of district property, vehicles or equipment at any time. A refusal to submit to a search may result in disciplinary action, up to and including dismissal.

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

^b Ibid. p. 1

Establishment of Drug-Free Awareness Program

The ESD 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 Conviction^c

An employee shall, as a condition of employment, notify the ESD school 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 ESD of an Employee Conviction

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.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 342.721](#)

[ORS 342.723](#)

[ORS 342.726](#)

[ORS Chapter 475](#)

[ORS 657.176](#)

[ORS 659A.127](#)

[OAR 581-022-221](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 85.600-85.645 (2016).

Controlled Substances Act, 21 U.S.C. § 812 (2012); Schedules of Controlled Substances, 21 C.F.R. §§ 1308.1-1308.15 (2016).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

^c Ibid. p. 1