

Culver School District 4J

Code: GBEDA
Adopted: 01/06/04
Revised: 04/18/06; 09/15/14
Revised: 01/10/18; 12/13/19

Drug and Alcohol Testing and Record Query – 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 (ODE). The district or its transportation provider shall comply with the reporting and pre-employment and annual query requirements of the Federal Motor Carrier Safety Administration (FMCSA).

Accordingly, all employees subject to commercial driver license (CDL) requirements shall be prohibited from:

1. The use of drugs, unless a written prescription from a licensed doctor or osteopath is provided, including a statement advising that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
2. The use of alcohol including:
 - a. While on duty;
 - b. Eight hours before driving, in accordance with Oregon Administrative Rules;
 - c. Eight hours following an accident;
 - d. Consumption resulting in prohibited levels of alcohol in the system.

'Drugs' as used in this policy refer to controlled substances covered by the OTETA, including marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered individuals offered employment with the district and district employees transferring to positions subject to the OTETA shall be required to submit to pre-employment drug testing and a pre-employment query with FMCSA. Additionally, covered employees will be subject to reasonable suspicion, random and post-accident alcohol and drug testing. Return-to-duty and follow-up testing may also be required.

Pre-employment drug testing costs will be paid for by the district. All drug and alcohol testing of district employees, including reasonable suspicion, random, post-accident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the district. A fee associated with a pre-employment query requested by the district from FMCSA will be paid by the district. The district will comply with collective bargaining agreement provisions.

All offers of employment or transfer to covered positions with the district will be made contingent upon testing results and information obtained from a query with FMCSA. An individual who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher will not be hired or transferred. The offer of employment or transfer will be immediately withdrawn¹. An offer of employment or transfer will also be immediately withdrawn from an individual who refuses drug testing and/or refuses to give consent for a query with FMCSA.

¹ The district may elect to allow an individual who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher to reapply for district employment or transfer to a covered position at a later date. At that time, the individual will again be tested for the presence of drugs and/or alcohol. A district employee considered for transfer to an OTETA-covered position who tests positive for drugs will be subject to all district policies and regulations including the district's Drug-Free Workplace policy.

Covered employees who, under the district's reasonable suspicion, random, post-accident, 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 FMCSA regulations. Covered employees who refuse consent for a query with FMCSA when required will be removed from safety-sensitive functions.

The district will establish a voluntary self-identification program consistent with the OTETA requirements. Accordingly, an employee who admits to alcohol misuse or drug use will not be subject to certain referral, evaluation and treatment requirements, provided:

1. This admission is in accordance with the provisions of this policy;
2. The driver does not self-identify in order to avoid testing as required by the OTETA;
3. The driver makes the admission prior to performing a safety-sensitive function (i.e., prior to reporting for duty);
4. The driver does not perform a safety-sensitive function until the district is satisfied that the employee has been evaluated and has successfully completed education or treatment in accordance with the district's self-identification program guidelines.

Adverse action on the part of the district against any employee making a voluntary admission of alcohol misuse or drug use consistent with the provisions of this policy is prohibited. The district is committed to providing sufficient opportunity for the employee to seek evaluation, education or treatment to establish control over their drug or alcohol problem.

Following successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional or qualified drug and alcohol counselor) the employee will be permitted to return to duty. The district will ensure that prior to the employee participating in a safety-sensitive function, the employee shall be required to undergo a return-to-duty testing with a result indicating a breath alcohol content level of less than 0.02 and/or a verified negative test result for drug use, as appropriate. The district may incorporate employee monitoring and include non-OTETA follow-up testing as part of its return-to-duty procedures under the district's self-identification program.

END OF POLICY

Legal Reference(s):

[ORS 657.176](#)

[ORS 825.415](#)

[ORS 825.418](#)

[OAR 581-053-0220\(3\)\(h\)](#)

[OAR 581-053-0230\(9\)\(t\)](#)

[OAR 581-053-0420\(4\)\(b\)\(B\)\(ii\)](#)

[OAR 581-053-0430\(13\),\(14\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)

[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)

[OAR 581-053-0620\(1\)\(d\)](#)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012); 49 C.F.R. Parts 40, 382, 391-395(2019).