

Senate Bill 494

Sponsored by Senator KRUSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires each public school district, education service district, community college and state institution of higher education to adopt rules that establish program requiring preemployment, reasonable suspicion, random and post-accident drug testing of employees.

Requires each education district or institution to submit biennial report regarding drug testing program to Superintendent of Public Instruction, Department of Community Colleges and Workforce Development or Oregon University System.

A BILL FOR AN ACT

1
2 Relating to drug testing of public education employees.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) "Clinical laboratory" has the meaning given that term in ORS 438.010.

6 (b) "Community college" has the meaning given that term in ORS 341.005.

7 (c) "Controlled substance" has the meaning given that term in ORS 475.005.

8 (d) "Education district or institution" means a school district, education service district,
9 community college or state institution of higher education within the Oregon University
10 System.

11 (e) "Education service district" has the meaning given that term in ORS 334.003.

12 (f) "School district" has the meaning given that term in ORS 332.002.

13 (2) Each education district or institution shall adopt rules that establish a program re-
14 quiring preemployment, reasonable suspicion, random and post-accident testing of employees
15 for the use of a controlled substance in violation of law, including any state or federal law,
16 rule or regulation.

17 (3) In adopting the rules under subsection (2) of this section, each education district or
18 institution:

19 (a) Shall develop requirements that:

20 (A) Promote, to the maximum extent practicable, individual privacy in collection of
21 specimens;

22 (B) For clinical laboratories and testing procedures, ensure that up-to-date scientific and
23 technical guidelines are applied in carrying out this section, including standards requiring
24 the use of the best available technology to ensure the complete reliability and accuracy of
25 controlled substances tests and strict procedures governing the chain of custody of speci-
26 mens collected for controlled substances testing;

27 (C) Require that a clinical laboratory involved in testing under this section have, at the
28 laboratory, the capability of and facility for performing screening and confirmation tests;

29 (D) Provide that any test indicating the use of a controlled substance in violation of law

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 be confirmed by a scientifically recognized method of testing capable of providing quantita-
2 tive information about a controlled substance;

3 (E) Provide that each specimen be subdivided, secured and labeled in the presence of the
4 tested individual and that a part of the specimen be retained in a secure manner to prevent
5 tampering, so that if the individual's confirmation test results are positive, the individual
6 may have the retained part tested by a second confirmation test done independently at an-
7 other clinical laboratory, if the individual requests the second confirmation test not later
8 than three days after being advised of the results of the first confirmation test;

9 (F) Provide for the confidentiality of test results and medical information of employees,
10 except that this subparagraph does not prevent the use of test results for the orderly im-
11 position of appropriate sanctions under this section;

12 (G) Ensure that employees are selected for tests by nondiscriminatory and impartial
13 methods, so that no employee is discriminated against by being treated differently from
14 other employees in similar circumstances;

15 (H) Provide that, for preemployment tests, the applicant shall pay the cost of the testing
16 and, if the test results are negative, the education district or institution shall reimburse the
17 applicant for the cost; and

18 (I) Provide that the education district or institution shall pay the costs of testing em-
19 ployees.

20 (b) Shall require that post-accident testing of an employee be conducted when loss of life
21 occurs.

22 (c) May require that post-accident testing of an employee be conducted when bodily in-
23 jury or significant property damage occurs.

24 (d) Shall establish requirements for rehabilitation programs that provide for the iden-
25 tification and opportunity for treatment of employees who are found to have used a con-
26 trolled substance in violation of law. The education district or institution shall determine the
27 circumstances under which those employees shall be required to participate in a rehabili-
28 tation program. The education district or institution shall require an employee who partic-
29 ipates in a rehabilitation program to pay the costs of the program not covered by insurance.

30 (4) Each education district or institution shall determine appropriate sanctions for an
31 employee who is found, based on tests conducted and confirmed under the education dis-
32 trict's or institution's program, to have used a controlled substance in violation of law.

33 (5) Subsection (4) of this section does not supersede a penalty applicable to an employee
34 under another law.

35 (6) Each school district and education service district shall submit a biennial report to
36 the Superintendent of Public Instruction, each community college shall submit a biennial
37 report to the Department of Community Colleges and Workforce Development and each state
38 institution of higher education shall submit a biennial report to the Oregon University Sys-
39 tem. Each report must describe the education district's or institution's program established
40 under this section for testing of applicants and employees for the use of a controlled sub-
41 stance and must provide statistics related to the operation and effectiveness of the program.

42 **SECTION 2.** (1) By no later than July 1, 2010, each education district or institution, as
43 defined in section 1 of this 2009 Act, shall adopt rules that establish a program described in
44 section 1 of this 2009 Act.

45 (2) Notwithstanding section 1 (6) of this 2009 Act, the first report submitted under section

1 **1 of this 2009 Act:**

2 **(a) Shall be submitted no later than December 31, 2010; and**

3 **(b) Need not provide statistics related to the operation and effectiveness of the program.**

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