

Personnel

Drugs and Alcohol-Free Workplace

BP 4020(a)

Note: Government Code 8355 mandates state grant recipients such as a school district to certify to the state contracting agency (e.g., the California Department of Education (CDE)) that it agrees to provide a drug-free workplace by taking the actions specified below. Federal grantees are also subject to the same requirements and must provide the same certifications under the federal Drug-Free Workplace Act (41 USC 701-707).

Note: Federal law contains independent requirements for the drug and alcohol testing of school bus drivers; see BP / AR 4112.42 / 4212.42 / 4312.42 - Drug and Alcohol Testing for School Bus Drivers. For language regarding a drug testing program for other employees, see BP / AR 4112.41 / 4212.41 / 4312.41 - Employee Drug Testing.

The Governing Board believes that the maintenance of a drug- and alcohol-free workplace is essential to staff and student safety and to help ensure a productive and safe work and learning environment.

(cf. 4112.41 / 4212.41 / 4312.41 - Employee Drug Testing)
(cf. 4112.42 / 4212.42 / 4312.42 - Drug and Alcohol Testing for School Bus Drivers)

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance in the workplace. (Government Code 8355; 41 USC 701)

Employees are prohibited from being under the influence of controlled substances or alcohol while on duty. For purposes of this policy, on duty means while an employee is on duty during both instructional and noninstructional time in the classroom or workplace, at extracurricular or cocurricular activities, or while transporting students or otherwise supervising them. Under the influence means that the employee's capabilities are adversely or negatively affected, impaired, or diminished to an extent that impacts the employee's ability to safely and effectively perform his/her job.

(cf. 4032 - Reasonable Accommodation)

Note: Government Code 8355 and 41 USC 701 require the district to certify to the CDE that it has published a statement that notifies employees of the (1) prohibition against drug use, (2) actions that will be taken by the district in the event of a violation, and (3) requirement that employees, as a condition of employment, abide by the district's policy and notify the district in the event of a conviction.

The Superintendent or designee shall notify employees of the district's prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 701)

An employee shall abide by the terms of this policy and shall notify the district, within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 701)

The Superintendent or designee shall notify the appropriate federal granting or contracting agency within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)

Note: 41 USC 703 requires the district, within 30 days of receiving notification from an employee of his/her conviction of a controlled substance offense, to either discipline the employee or require him/her to complete a drug rehabilitation program as specified below. Pursuant to Education Code 44940 and 45304, when a certificated or classified employee is charged with a controlled substance offense as defined in Education Code 44011, the district must place the employee on a mandatory leave of absence. If the employee is ultimately convicted of the offense, Education Code 44836 and 45123 require the employee to be dismissed. See AR 4118 - Suspension/Disciplinary Action, AR 4117.4 - Dismissal, and AR 4218 - Dismissal/Suspension/Disciplinary Action.

In accordance with law and the district's collective bargaining agreements, the Superintendent or designee shall take appropriate disciplinary action, up to and including termination, against an employee for violating the terms of this policy and/or shall require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state, or local public health or law enforcement agency or other appropriate agency.

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Drug-Free Awareness Program

The Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 701)

1. The dangers of drug abuse in the workplace
2. The district's policy of maintaining a drug-free workplace
3. Available drug counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug abuse violations occurring in the workplace

Summerville Elementary School District

*Adopted 2/91
Updated 9/14/10
Updated 1/4/11*

Legal Reference:

EDUCATION CODE

44011 Controlled substance offense

44425 Conviction of controlled substance offenses as grounds for revocation of credential

44836 Employment of certificated persons convicted of controlled substance offenses

44940 Compulsory leave of absence for certificated persons

44940.5 Procedures when employees are placed on compulsory leave of absence

45123 Employment after conviction of controlled substance offense

45304 Compulsory leave of absence for classified persons

GOVERNMENT CODE

8350-8357 Drug-free workplace

UNITED STATES CODE, TITLE 20

7111-7117 Safe and Drug Free Schools and Communities Act

UNITED STATES CODE, TITLE 21

812 Schedule of controlled substances

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 Schedule of controlled substances

COURT DECISIONS

Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381

Ross v. RagingWire Telecommunications, Inc., (2008) 42 Cal.4th 920

Management Resources:

WEB SITES

California Department of Alcohol and Drug Programs: <http://www.adp.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Labor: <http://www.dol.gov>