



Santa Ana Unified School District

BOARD POLICY NO: 4020

EFFECTIVE: 10/09/2018

SUBJECT: Drug and Alcohol – Free Workplace

CATEGORY: Personnel

RESPONSIBLE OFFICE(S): Human Resources/Administrative Services

SCOPE:

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 8101-8106).

POLICY:

The Governing Board believes that the maintenance of drug and alcohol-free workplaces is essential to staff and student safety and to help ensure a productive and safe work and learning environment. This includes, pre-employment screening, reasonable suspicion, random, post-accident, return to duty, and follow-up drug and alcohol testing of drivers.

(cf. 4112.42/4212.42/4312.42 – Drug and Alcohol Testing for Commercial Drivers)

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance or be under the influence of any alcoholic beverage in the workplace during working hours (including meal and break periods at any school district property or offsite) or while on duty, or at a school-related activity or event (Government Code 8355; 41 USC 8103) these prohibitions apply before, during, and after school hours. For purposes of this policy, on duty means while an employee is on duty during both instructional and non-instructional time in the classroom or workplace, at extracurricular or co-curricular activities, or while transporting students or otherwise supervising them.

A school district workplace is any place where school district work is performed, and school owned, leased or school approved vehicle used to transport students to and from school or school activities; any off-school sites when accommodating a school sponsored or school approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business. 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.

Pursuant to the federal Omnibus Transportation Employee Testing Act of 1991, school bus drivers shall be subject to a drug and alcohol testing program that fulfills the requirements of the 49 CFR 382.

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 8103)



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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 8103)

The Superintendent of 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 8103)

Pursuant to California Education Code 44836 and 45123, the Board may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction.

Pursuant to Education Code 45123, the district may employ for classified service a person who has been convicted of a controlled substance offense only if it determines, from evidence presented, that the person has been rehabilitated for at least five years. The Board shall determine the type and manner of presentation of the evidence, and the Board's determination as to whether or not the person has been rehabilitated is final.

Pursuant to Education Code 44425, whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and licensing has been convicted of a controlled substance offense as defined in Education Code 44011, the commission shall forthwith suspend the credential. When the conviction becomes final or when imposition of sentence is suspended, the commission shall revoke the credential. (Education Code 44425)

Pursuant to Education Code 44940, the district must immediately place on compulsory leave of absence any certificated employee charged with involvement in the sale, use or exchange to minors of certain controlled substances.

Pursuant to Education Code 44940, the district may immediately place on compulsory leave of absence any certificated employee charged with certain controlled substance offenses.

Pursuant to Education Code 45304, the district must immediately place on compulsory leave of absence any classified employee charged with involvement in the sale, use or exchange to minors of certain controlled substances.

Pursuant to Education Code 45304, the district may immediately place on compulsory leave of absence any classified employee charged with certain controlled substance offenses.



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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 drug assistance or rehabilitation program approved by federal, state, or local public health or law enforcement agency or other appropriate agency. (cf. 4218 – Dismissal/Suspension/Disciplinary Action)

The Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 8103)

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

DESIRED OUTCOME:

Through this policy and related administrative regulation, the District shall ensure a drug and alcohol free workplace.

IMPLEMENTATION GUIDELINES AND ASSOCIATED DOCUMENTS:

District Policies and Procedures:

BP/AR 4112.42/4212.42/4312.42 – Drug and Alcohol Testing for Commercial Drivers

BP/AR 4218 – Dismissal/Suspension/Disciplinary Action

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



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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

8101-8106 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 Education: <http://www.cde.ca.gov>

California Department of Health Care Services: <http://dhcs.ca.gov>

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

ADOPTION AND REVISION HISTORY:

(7-89, 2-91, 10-96, 3-05, 11-14, 7-16) 9-18

Santa Ana, CA