

DRUG AND ALCOHOL-FREE WORKPLACE

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, on district property, or at a district-related activity or event. 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)

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)

For the purpose of this policy, "conviction" shall mean a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged to determine violations of federal or state criminal drug or alcohol statutes.

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, within 30 days of notification of a conviction against an employee for violating the terms of this policy and/or shall require the employee to satisfactorily participate in and

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

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

Legal Reference (on next page)

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

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>

Policy

adopted: June 24, 1997

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revised: November 9, 2010

revised: March 8, 2011

reviewed: February 1, 2021

VISALIA UNIFIED SCHOOL DISTRICT

Visalia, California

**DRUG AND ALCOHOL-FREE WORKPLACE
NOTICE TO EMPLOYEES**

YOU ARE HEREBY NOTIFIED that it is a violation of Board policy for any employee at a school district workplace to unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations.

"School district workplace" is defined as any place where school district work is performed, including a school building or other school premises; any school-owned 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, such as a field trip or athletic event, 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.

As a condition of your continued employment with the district, you will comply with the district's policy on Drug and Alcohol-Free Workplace and will, any time you are convicted of any criminal drug or alcohol statute violation occurring in the workplace, notify your supervisor of this conviction no later than five (5) calendar days after such conviction.

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 Code of Federal Regulations, Title 49, Part 382.

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

Pursuant to California Education Code sections 44836 and 45123, the Board may not employ or retain in employment persons convicted of any sex offense as defined in Education Code section 44010 or any controlled substance offense as defined in Education Code section 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.

Pursuant to Education Code section 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 (5) 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 section 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 any sex offense as defined in Education Code section 44010 or any controlled substance offense as defined in Education Code section 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 section 44425)

**DRUG AND ALCOHOL-FREE WORKPLACE
NOTICE TO EMPLOYEES**
(continued)

Pursuant to Education Code section 44940(d), the district shall immediately place on compulsory leave of absence any certificated employee charged with the commission of any sex offense as defined in Education Code section 44010 or with involvement in the sale, use or exchange to minors of certain controlled substances. (See: Education Code section 44940(a).)

Pursuant to Education Code section 44940(e), the Governing Board may immediately place on compulsory leave of absence any certificated employee charged with any controlled substance offense as defined in Education Code section 44011 or certain controlled substance offenses. (See: Education Code section 44940(b).)

Pursuant to Education Code section 45304(c), the Governing Board may immediately place on compulsory leave of absence any classified employee charged with any controlled substance offense as defined in Education Code section 44011 or certain controlled substance offenses. (See: Education Code section 44940(b).)

Employees with district health coverage should refer to their health plan document for information pertaining to drug and alcohol counseling and rehabilitation programs.

All district employees are entitled to use the employee assistance program provided through Kaweah Delta Employee Assistance Care Network, 601 West Willow, Visalia, CA 93291. Phone 733-0227 or 1-800-784-2255.

Drug and alcohol counseling, rehabilitation, and/or employee assistance programs are available locally as part of the employee's fringe benefits program. For detailed information contact the Employee Benefits Office.

(Employee Signature)

(Date)

Exhibit
adopted: June 22, 1999
reviewed: February 1, 2021

VISALIA UNIFIED SCHOOL DISTRICT
Visalia, California

