

MODESTO CITY SCHOOLS

Board Policy

BP 4112.42/4212.42/4312.42

PERSONNEL

Drug and Alcohol Testing for School Bus Drivers and Other Commercial Drivers

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

A driver shall not report for duty or remain on duty when the driver has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver is using the drug under the direction of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.213)

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

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Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

If the substance abuse professional recommends that further and ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's compliance. Any drop from a rehabilitation or return-to-duty program or a

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subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

Legal Reference:

CALIFORNIA CODE OF REFERENCES, TITLE 13

1200-1294 Motor carrier safety

1213.1 Placing drivers out-of-service

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Certification of drug-free workplace, including notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

382.101-382.727 Controlled substance and alcohol use and testing

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

What is CSAT? Controlled Substances and Alcohol Testing, 2005

WEB SITES

Commercial Driver's License Drug and Alcohol Clearinghouse: <https://clearinghouse.fmcsa.dot.gov/>

California Department of Motor Vehicles: <https://www.dmv.ca.gov/portal/>

California Highway Patrol: <https://www.chp.ca.gov/>

Federal Motor Carrier Safety Administration: <https://www.fmcsa.dot.gov/>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<https://www.transportation.gov/odapc>

Cross References (cf.):

3513.4 Drug And Alcohol Free Schools (N/A)

3513.4 Liability issues and Parent Groups Organizing Grad Night

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Cross References (cf.) (cont.):

3530 Risk Management/Insurance

3540 Transportation (N/A)

3542 School Bus Drivers (N/A)

3543 Transportation Safety And Emergencies (N/A)

3580 District Records

4020 Drug And Alcohol-Free Workplace

4112.41 Employee Drug Testing (N/A)

4112.9/4212.9/4312.9 Employee Notifications

4112.9/4212.9/4312.9-E Employee Notifications

4118 Dismissal/Suspension/Disciplinary Action

4119.21/4219.21/4319.21 Professional Standards-Code of Ethics

4119.21/4219.21/4319.21-E Professional Standards for Educational Leaders

4119.21-E PDF(1) Professional Standards (N/A)

4159/4259/4359 Employee Assistance Programs

4161/4261/4361 Leaves

4161.1 Personal Illness/Injury Leave

4161.8/4261.8/4361.8 Family Care And Medical Leave

4161.9 Catastrophic Leave Program (N/A)

4212.41 Employee Drug Testing (N/A)

4212.41 Controlled Substance and Alcohol Testing Program

4218 Dismissal/Suspension/Disciplinary Action

4219.21-E PDF(1) Professional Standards (N/A)

4261.1 Personal Illness/Injury Leave

4261.9 Catastrophic Leave Program (N/A)

4312.41 Employee Drug Testing (N/A)

4319.21-E PDF(1) Professional Standards (N/A)

4361.1 Personal Illness/Injury Leave (N/A)

4361.9 Catastrophic Leave Program (N/A)