

CVUSD Board Policy

BP 4020

Personnel

Drug And Alcohol-Free Workplace

Note: Government Code 8350-8357 mandates state grant recipients, such as school districts, to adopt a drug-free workplace program. Federal grantees are also subject to the same requirements under the federal Drug-Free Workplace Act (41 USC 701-707).

Note: Government Code 8355 requires districts to notify employees of the policy on this topic and to certify to the state contracting agency that they have adopted a policy which includes the provisions specified below. Contracts and grants are subject to suspension and termination and the contractors or grantees subject to suspension and debarment if false certification is made or if the certification is violated by failure to carry out the requirements of these laws.

The Governing Board believes that the maintenance of drug- and alcohol-free workplaces is essential to school and district operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any school district workplace. These prohibitions apply before, during and after school hours. A school district workplace is any place where school district work is performed, 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 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.

(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)

The Superintendent or designee shall notify employees of these prohibitions. (Government Code 8355; 41 USC 702)

An employee shall abide by the terms of this policy and notify the district, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

The Superintendent or designee shall notify the appropriate federal granting or contracting agencies 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: Government Code 8355 requires the district to also notify employees of the penalties that may be imposed for violations of these prohibitions. Pursuant to 41 USC 702, violations may result in personnel action "up to and including termination" or requiring the employee to satisfactorily participate in an abuse assistance or rehabilitation program approved for such purposes by an appropriate governmental agency. In addition, Education Code 44836 and 45123 require that employees convicted of certain drug offenses be terminated, as specified below. Disciplinary action and other penalties for drug abuse convictions of school bus drivers are covered in BP/AR 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers.

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. (Education Code 44836, 45123)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4212 - Appointment and Conditions of Employment)

A classified employee may be reemployed after conviction of such an offense if the Board determines, from the evidence presented, that the person has been rehabilitated for at least five years. (Education Code 45123)

Note: 41 USC 703 authorizes the Board to discipline an employee who violates the district's drug-free workplace policy or to require the employee to complete a drug rehabilitation program as specified below.

The Board may take appropriate disciplinary action, up to and including termination, or require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Note: Pursuant to Government Code 8355, the district must certify the following information to the state contracting agency.

The Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace
2. The district policy of maintaining drug- and alcohol-free workplaces

3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

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

4. The penalties that may be imposed on employees for drug and alcohol abuse violations

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

CSBA: (12/89 12/90) 7/02

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