

Pacifica SD

Board Policy

Drug And Alcohol-Free Workplace

BP 4020

Personnel

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 the Controlled Substances Act and Code of Federal Regulations at any school district workplace before, during or after school hours at school or in any other district workplace. 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.

The Superintendent or designee shall:

1. Publish and give to each employee a notification of the above prohibitions. The notification shall specify the actions that will be taken against employees who violate these prohibitions. The notification shall also state that as a condition of employment, the employee will abide by the terms of this policy and notify the employer, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace.

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.

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.

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)

2. Establish a drug and alcohol-free awareness program to inform employees about:

- a. The dangers of drug and alcohol abuse in the workplace

- b. The district policy of maintaining drug and alcohol-free workplaces
 - c. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs and
 - d. The penalties that may be imposed on employees for drug and alcohol abuse violations
3. 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.
 4. Initiate disciplinary action within 30 days after receiving notice of a conviction for a violation in the workplace from an employee or otherwise. Such action shall be consistent with state and federal law, the appropriate employment contract, the applicable collective bargaining agreement and district policy and practices.
 5. Make a good faith effort to continue maintaining a drug and alcohol-free workplace through implementation of Board policy.

In taking disciplinary action, the Board shall require termination when termination is required by law. When termination is not required by law, the Board shall either take disciplinary action, up to and including termination, or shall 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. The Board's decision shall be made in accordance with relevant state and federal laws, employment contracts, collective bargaining agreements and district policies and practices.

- (cf. 4117.4 - Dismissal)
- (cf. 4118 - Suspension/Disciplinary Action)
- (cf. 4159/4258/4359 - Employee Assistance Programs)
- (cf. 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

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 PACIFICA SCHOOL DISTRICT

adopted: August 29, 2012 Pacifica, California