

Personnel Policies & Procedures

Drug and Alcohol-Free Workplace

The Nevada County Superintendent of Schools 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.

The NCSOS Drug and Alcohol-Free Workplace policy, prohibits employees at all times from using, possessing, transferring, or selling drugs at any county superintendent of schools' workplace or while on duty. This includes during school or business hours and after-hours. Employees are also prohibited from reporting to work under the influence of any controlled substance, including without limitation marijuana or cannabis.

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 812 at any county superintendent of schools workplace or while on duty. These prohibitions apply before, during, and after work hours. A *superintendent of schools workplace* is any place where county superintendent of schools work is performed; any county owned or county-approved vehicle used to transport students and staff 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 county office jurisdiction; or during any period of time when an employee is supervising students on behalf of the superintendent of schools or otherwise engages in county office business. *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. 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.

Marijuana, cannabis, and THC are defined as controlled substances under federal law and are prohibited at all times, regardless of California's decriminalization of adult use of marijuana. Although the enactment of Proposition 64, also known as the Control, Regulate and Tax Adult Used of Marijuana Act (AUMA), legalizes recreational use of marijuana in California, marijuana still remains an illegal Schedule 1 substance under the Federal Controlled Substances Act. In light of that and specific language in Proposition 64, the legalization of recreational use marijuana under the AUMA does not impact this Drug and Alcohol Free Workplace policy, nor does it require the Nevada County Superintendent of Schools to accommodate recreational or medical marijuana use. Therefore, the Nevada County Superintendent of Schools is obligated and will continue to prohibit use, possession, and impairment in the workplace. The Nevada County Superintendent of Schools reserves the right to drug/alcohol test an employee for being under the influence when deemed appropriate.

In accordance with current California law, NCSOS reserves its right to prohibit the use or possession of marijuana, including marijuana subject to a valid prescription. NCSOS will not reasonably accommodate any staff member with a medical marijuana prescription. Therefore, at

no time shall a staff member be in possession of or under the influence of marijuana on campus.

The Superintendent or designee shall notify employees of these prohibitions and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 8103)

An employee shall abide by the terms of this policy and shall notify the district, within five (5) days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 8103)

The Superintendent or designee shall notify the appropriate federal granting or contracting agency within ten (10) days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 8103)

In accordance with law and NCSOS'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.

Compliance with this policy shall be a condition of employment. It is the responsibility of every employee to carry out this policy. As an employee, if you believe another employee to be under the influence, you are expected to report it immediately to management personnel.

(cf. 4032 - Reasonable Accommodation)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(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)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

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

(cf. 4212 - Appointment and Conditions of Employment)

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

Drug and Alcohol Free Awareness Program

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. NCSOS'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 and alcohol abuse violations occurring in the workplace

All employees of the Nevada County Superintendent of Schools have available coverage under the Employee Assistance Program (EAP), which can provide the guidance and assistance needed to address alcohol and/or drug abuse. Any employee who believes they are in need of this assistance is encouraged to contact their EAP provider. EAP provider information is posted at

each worksite and is also available by contacting the Human Resources department.

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
- 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. Raging Wire 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 Health Care Services: <http://dhcs.ca.gov>
- California Department of Education: <http://www.cde.ca.gov>
- U.S. Department of Labor: <http://www.dol.gov>

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