

KERN COUNTY SUPERINTENDENT OF SCHOOLS OFFICE**PERSONNEL****DRUG AND ALCOHOL-FREE WORKPLACE**

The Kern County Superintendent of Schools believes that the maintenance of drug and alcohol-free workplaces is essential to staff and student safety and to help ensure a productive and safe work and learning environment.

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. 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. *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.

Although the enactment of Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), legalizes recreational use of marijuana in California, marijuana still remains an illegal Schedule I 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 Kern County Superintendent of Schools to accommodate recreational or medical marijuana use. Therefore, The Kern County Superintendent of Schools is obligated and will continue to prohibit use, possession, and impairment at a superintendent of schools workplace, as well as test for marijuana use when appropriate.

The office has in place a random substance abuse testing program for all health and safety related positions. In addition, reasonable suspicion testing may be conducted on any Kern County Superintendent of Schools employee when impairment on the job is reasonably suspected. *Reasonable suspicion* is a belief based on objective facts sufficient to lead a trained supervisor to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of his/her job is impaired or the employee's ability to perform his/her job safely is reduced.

The County Superintendent or designee is required to 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 Kern County Superintendent of Schools Office within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 8103) The County

Superintendent or designee is required to 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 8103)

In accordance with law and the office'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.

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 and alcohol abuse in the workplace
2. The district's policy of maintaining a drug and alcohol 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 Kern 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 EAP at 1-800-999-7222.

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:

WEBSITES

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>