

## **MIDDLETOWN UNIFIED SCHOOL DISTRICT**

### **Policy 4212.42: Drug And Alcohol Testing For School Bus Drivers**

**Original Adopted Date: 1/17/2024**

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)

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

### **Voluntary Self-Identification**

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over the drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
  - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
  - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that the driver does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until the driver has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

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### **Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
13 CCR 1200-1294	<a href="#">Motor carrier safety</a>
13 CCR 1213.1	Placing drivers out-of-service
Ed. Code 35160	<a href="#">Authority of governing boards</a>

Gov. Code 8355	<a href="#">Certification of drug-free workplace, including notification</a>
Veh. Code 13376	<a href="#">Driver certificates; revocation or suspension</a>
Veh. Code 34500-34520.5	<a href="#">Safety regulations</a>
<b>Federal</b>	<b>Description</b>
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.727	Controlled substance and alcohol use and testing
49 CFR 382.205	On-duty use
49 CFR 382.207	Pre-duty use
49 CFR 382.209	Use following an accident
49 CFR 40.1-40.413	Procedures for transportation workplace drug and alcohol testing programs
49 USC 31306	Alcohol and drug testing
<b>Management Resources</b>	<b>Description</b>
California Highway Patrol Publication	Controlled Substances and Alcohol Testing Compliance Checklist, 2007
California Highway Patrol Publication	What is CSAT? Controlled Substances and Alcohol Testing, 2005
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">Commercial Driver's License Drug and Alcohol Clearinghouse</a>
Website	<a href="#">California Department of Motor Vehicles</a>
Website	<a href="#">California Highway Patrol</a>
Website	<a href="#">Federal Motor Carrier Safety Administration</a>
Website	<a href="#">U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance</a>

## Cross References

<b>Code</b>	<b>Description</b>
3513.4	<a href="#">Drug And Alcohol Free Schools</a>
3530	<a href="#">Risk Management/Insurance</a>
3530	<a href="#">Risk Management/Insurance</a>
3540	<a href="#">Transportation</a>
3542	<a href="#">School Bus Drivers</a>
3543	<a href="#">Transportation Safety And Emergencies</a>
3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>

4020	<a href="#">Drug And Alcohol-Free Workplace</a>
4112.41	<a href="#">Employee Drug Testing</a>
4112.41	<a href="#">Employee Drug Testing</a>
4112.9	<a href="#">Employee Notifications</a>
4112.9-E(1)	<a href="#">Employee Notifications</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.21	<a href="#">Professional Standards</a>
4119.21-E(1)	<a href="#">Professional Standards</a>
4159	<a href="#">Employee Assistance Programs</a>
4161	<a href="#">Leaves</a>
4161	<a href="#">Leaves</a>
4161.1	<a href="#">Personal Illness/Injury Leave</a>
4161.8	<a href="#">Family Care And Medical Leave</a>
4161.9	<a href="#">Catastrophic Leave Program</a>
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