

Policy 4112.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 02/01/1996 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires individuals employed as drivers of other school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

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)

CSBA NOTE: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

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)

CSBA NOTE: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following optional paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

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.

CSBA NOTE: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is optional. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

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

CSBA NOTE: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is mandated to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

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)

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.

State References

	Description
13 CCR 1200-1293	Motor carrier safety - https://simbli.eboardsolutions.com/SU/yQSHDNRNIEMnhAVA3MDcgQ==
13 CCR 1212-1228	School bus driver requirements - https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==
Ed. Code 35160	Authority of governing boards
Gov. Code 8355	Certification of drug-free workplace, including notification
Veh. Code 13376	Driver certificates; revocation or suspension
Veh. Code 34500-34520.5	Safety regulations

Federal References

	Description
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.605	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

Management Resources References

	Description
California Highway Patrol Publication	Controlled Substances and Alcohol Testing Compliance Checklist, 2007
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==

Cross References

	Description
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/NjNas6YslshVrD5emvU2inQpA==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/iUslshDYKQy5slzYHL2I74W8Q==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/qBRGHEJBCZYTaxyFzvOqxA==
3540	Transportation - https://simbli.eboardsolutions.com/SU/T5zxrRw1IWplusOweluxQOEg==
3542	School Bus Drivers - https://simbli.eboardsolutions.com/SU/m2GUsL34DQI1rYg7APT8MQ==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/CnWplus8Tww7eLQE6ubH0Kz3A==
3580	District Records - https://simbli.eboardsolutions.com/SU/AXAhpslshcPh0iLOzR2ENBplusg==

3580 District Records -
<https://simbli.eboardsolutions.com/SU/uOtA4qKHs9KmbhVG9lyY8g==>

4020 Drug And Alcohol-Free Workplace -
<https://simbli.eboardsolutions.com/SU/uBQlsGug3wDpLuVslshN0Bw8w==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/laz58zCWp15yDTaZrslshenslshA==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/qVZaqPt6le3ee1plusC6xt81w==>

4112.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/R69slshplusARbm5ivW5YxKn0xtw==>

4112.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/okKfu999XNsD6lSrd5pKEA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/1YrgGuTkMbplus0UaxAvWCplusJw==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/yDCJeRpwI0FjrK2At7UfwQ==>

4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/ZeWK7tnMakbZUuFaaDBDWw==>

4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/iG6AVBF4BgdzHyzFjuvhbw==>

4159 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/txrNM9gF1boz8Nf2oslshlO9A==>

4161 Leaves -
<https://simbli.eboardsolutions.com/SU/EEtfzeiJ9DYDpq6V8O9ufA==>

4161 Leaves -
<https://simbli.eboardsolutions.com/SU/wplus3AUk6DvuWNSyLwUAxjww==>

4161.1 Personal Illness/Injury Leave -
<https://simbli.eboardsolutions.com/SU/WjW7dLrR0ChNb57ptPUm6A==>

4161.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/9IEvxf4slshslsh9sNpBhAslslplussA==>

4161.9 Catastrophic Leave Program -
<https://simbli.eboardsolutions.com/SU/zhVKA7Mplusee3576U8RuJViw==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/Lpylslshr2AwQzP6wYmtqzYHw==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/IHkJXuS8T0zLBQcV5h6UNA==>

4212.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/SLaMdz70MwclsIslhNGJmLHeEw==>

4212.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/gMTJZfEVJluBQZgAmwpghw==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/fkQ8KXXilmL8nSZKln3ujA==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/czG8fDwRf064KBrmx9JpoA==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/m8U4AdO31qCHGQjYPO4NBg==>

4219.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/dqLF5qfWnPonZplusdlnqIZDw==>

4259 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/u1YrbuswoDlpUSdoZfjQsg==>

- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/guO1d4slshcTYqwJmzE73tPGw==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/5mofGe5xHhtWg3rdxQ2UPg==>
- 4261.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/feBmvDqhWS5Grsly9OBgGA==>
- 4261.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/xlBVvc1EstQ2pU2F7Ptpw==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/pXjOrTvUPESrIB4HLYe4tg==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/8AvslshEMRrxzcSx59XwX7Yng==>
- 4312.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/sr80scCMfn5guXv6tlqpVw==>
- 4312.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/qC3iCgalNSD8BubajDCp2w==>
- 4312.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/ac3VkJe1cC7IYHrUOC9fIQ==>
- 4312.9-E(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/AV80TEplusDzqioppBPAUSusg==>
- 4319.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/115qDfPPbZS8TcMjIdkzzQ==>
- 4319.21-E(1) Professional Standards - <https://simbli.eboardsolutions.com/SU/ijbjz3ryK1wpluscdDjXaV78w==>
- 4359 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/rryTo12awNJz1zTTPGf1LA==>
- 4361 Leaves - <https://simbli.eboardsolutions.com/SU/HdN89jeb2ZyGTQ98Z8Gi6w==>
- 4361 Leaves - <https://simbli.eboardsolutions.com/SU/9apqd9pl4GPXauBWBbgNuA==>
- 4361.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/YEoD77CQ0wrEZPtU9WKRFw==>
- 4361.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/p28KyVlbS0RSNY975FHGSQ==>
- 4361.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/cJjmBDWUMvmFD6E8RBgYHA==>
- 4361.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/OGWeBosHFfKVWJOK61WcHQ==>