



## **Police Department Personnel**

### **Drug and Alcohol Testing**

#### **I. Definitions**

- A. Police Personnel - All sworn peace officers, including ranking officers, campus parking officers, campus service officers and telecommunicators.
- B. Drugs - Controlled substances including but not limited to cannabinoids, cocaine, amphetamines, opiates, and phencyclidine.
- C. Drug Test - A urinalysis test administered under prescribed conditions and procedures to detect the presence of controlled substances and/or their metabolites.
- D. Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.
- E. Alcohol Test – A breath sample analysis using an Evidential Breath Testing device (EBT).
- F. Reasonable Objective Basis –
  - 1. The physical examination requirement prior to an offer of employment as a District Police officer assignment, and the physical examination requirement of all District police personnel every two years of their employment.
  - 2. Reasonable suspicion based upon specific, articulable, objective facts and any rationally derived inferences, which would lead a reasonable person to suspect that an individual is or has been using or possessing drugs while on or off duty, or is under the influence or in possession of alcohol while on duty or in the workplace. Reasonable suspicion to require testing shall be determined by two persons, at least one of whom shall have received Penal Code 11550 training and at least one of whom shall not be a bargaining unit member. Any such person shall have a minimum of two hours training in substance abuse detection. The basis for reasonable suspicion shall be documented in writing.
  - 3. Following an accident involving an SUSD Police Department vehicle whenever:
    - a. The accident involves a fatality or serious injury requiring treatment at a medical care facility.



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- b. The driver of the department vehicle receives a citation under state or local law for a moving traffic violation arising from the accident.
  - c. The District shall cease attempts to administer an alcohol test after eight hours following the accident; and cease attempts to administer a drug test after 32 hours following the accident.
4. Following the discharge of a firearm in the line of duty, except for firearms training, certification or practice.
5. Upon satisfactory completion of a prescribed alcohol rehabilitation program, prior to returning to duty and thereafter as determined by a Substance Abuse Professional (SAP) involved in the employee's rehabilitation program.

## **II. General Rules**

- A. Stockton Unified School District Police Department personnel shall not use or be under the influence of any controlled substance except as prescribed by a physician. Police personnel shall not possess any controlled substance except as necessary to discharge law enforcement functions.
  1. Police personnel who are required by a physician to use a prescription medicine that may impair their job performance shall immediately notify a supervisor of the known side effects of the medication and the prescribed period of use. Such employees shall be temporarily reassigned to other related duties, if available. The District shall provide written reasons for denying modified duty upon written request of the employee.
  2. Any illegal use or possession of drugs by Police Department personnel whether on or off duty shall be grounds for disciplinary action up to and including dismissal in accordance with the applicable collective bargaining agreement.
  3. Any Police Department personnel who unintentionally or involuntarily ingest a controlled substance shall immediately report the incident to a supervisor so that appropriate medical steps may be taken to ensure the employees health and safety.



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- B. Stockton Unified School District Police Department personnel shall not use, possess or be under the influence of alcohol while on assigned duty, in the workplace or concerning the performance of any law enforcement function.
  - 1. Police personnel shall not report for duty within four hours after using alcohol.
  - 2. Police personnel shall not use alcohol or a controlled substance for eight hours following an accident or after discharging a firearm until they undergo drug and alcohol testing, whichever comes first.
- C. Failure to comply with any provisions of this policy may be grounds for disciplinary action up to and including dismissal, except as otherwise provided herein. Refusal by Police Department personnel to take a required drug or alcohol test, or otherwise comply with this policy, will result in immediate removal from duty pending appropriate administrative, disciplinary or other action in accordance with the collective bargaining agreement.

### **III. Drug and Alcohol Testing**

- A. Applications for employment with the SUSD Police Department shall be routinely tested for drug and alcohol use as part of the pre-employment physical examination. The testing procedure and safeguards set forth in this policy shall be followed by the examining physicians and others involved in the testing procedure.
  - 1. Refusal to take a drug or alcohol test, a confirmed positive controlled substance test result or a blood alcohol concentration of 0.002% or greater shall be good and sufficient basis for discontinuing an applicant from further consideration for employment.
  - 2. Any applicant determined to have a confirmed positive test result for any controlled substance, the use or possession of which would constitute a felony, shall not be reconsidered for employment.
  - 3. Any applicant who has previously refused to submit to or otherwise cooperate with drug or alcohol testing shall not be considered for employment upon reapplication.



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- B. Current employees of the Police Department shall be required to submit to drug and/or alcohol testing as follows:
  - 1. A drug test shall be a part of each routine biennial physical examination.
  - 2. Based upon reasonable suspicion as determined in accordance with this policy.
  - 3. Following an accident on duty in accordance with this policy.
  - 4. Following the discharge of a firearm on duty in accordance with this policy.
  - 5. After satisfactory completion of an approved alcohol rehabilitation program as a condition to returning to duty and following as determined by a SAP.
- C. Employees will report or be transported to a collection site and present reliable individual identification.
  - 1. Time spent in testing will be considered work time for purposes of compensation except for return-to-duty testing unless the employee is eligible for compensation on the basis of other paid leave.
  - 2. Stockton Unified School District will pay all actual costs for alcohol or drug testing as well as all reasonable transportation costs.
  - 3. The procedures for administering the drug and/or alcohol testing program for Police Department personnel shall be substantially the same as those prescribed for the testing of commercial drivers under Title 49, Code of Federal Regulations, Part 40 et seq.
  - 4. The cutoff levels for initial, screening and confirmation drug tests shall be those prescribed by federal regulations.
- D. Testing for Alcohol
  - 1. Generally, two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02% alcohol concentration is considered a “negative” test. If the alcohol concentration is



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- 0.02% or greater, a second confirmation test must be conducted.
2. The employee and the Breath Alcohol Technician (BAT) complete the alcohol testing forms to ensure that their results are properly recorded.
  3. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, and sequential test number of the EBT to ensure the reliability of the results. The confirmation test results determine any action to be taken
  4. Testing procedures that ensure accuracy, reliability and confidentiality of test results are prescribed by federal regulations. These procedures include training and proficiency requirements for BATs, quality assurance plans for the breath testing devices (including calibration requirements for a suitable test location) and protection of employee test records.
  5. Preparation for Breath Alcohol Testing
    - a. Employees will be notified by their supervisor that they are to participate in alcohol testing for one of the following reasons: biennial physical examination, reasonable suspicion, post-accident, firearms discharge, follow-up testing and return to duty.
    - b. Upon arrival at the alcohol testing location, the BAT will require the employee to provide positive identification (photo ID or identification by an SUSD representative). On request, the BAT will provide positive identification to the employee.
    - c. The BAT will explain the testing procedure.
  6. Laboratory Procedures for Breath Tests
    - a. The BAT will complete and sign the testing form along with the employee. Refusal by the employee to sign will be regarded as a refusal to take the test.
    - b. An individually sealed mouthpiece will be opened in the presence of the employee. After providing an adequate breath sample, the BAT will show the employee the result displayed on the EBT and shall properly record the result.



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- c. A screening test with an alcohol concentration of less than 0.02% is considered negative and the negative result will be reported to SUSD in confidential manner.
  - d. A second confirmation test will be conducted within 15-20 minutes if the result of the screen test indicates an alcohol concentration of 0.02% or greater. The confirmation test result is deemed to be the final result upon which any further administrative action shall be based.
- 7. Refusal to Test and Uncompleted Test
  - a. Any employee who fails to provide an adequate breath sample without a valid medical explanation, complete and sign testing forms or cooperate with any of the testing process shall be deemed to have refused to submit to mandatory alcohol testing in violation of this policy.
  - b. Any such refusal shall also be deemed to constitute a verified alcohol test of 0.04% or greater and subject the employee to administrative action in accordance with this policy.
- 8. Invalid Tests – A breath alcohol test shall be invalid under the following circumstances:
  - a. The EBT produces an external calibration result that exceeds tolerances.
  - b. The BAT does not wait 15 minutes between the initial and confirmation tests.
  - c. An air blank of the EBT prior to the confirmation test is not performed or exceeds 0.00%.
  - d. The BAT fails to properly sign the testing form.
  - e. The BAT fails to note the employee failed or refused to sign the testing form.
  - f. The EBT fails to print a confirming test result.
  - g. The sequential test numbers on the EBT and testing form are not the same.



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#### **E. Testing for Drugs**

1. The employee provides a urine specimen in a location that affords privacy and the collector seals and labels the specimen, completes a chain of custody documents and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not comprised.
2. Urine testing for drugs shall use the "split sample" method of collection. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen to be sent to another DHHS certified laboratory for analysis.

#### **F. Preparation for Drug Testing**

1. Employees will be notified by their supervisor that they are being subject to drug testing and the reason thereof.
2. Employees will be directed to report to a designated drug sample collection site at a specified time and date.

#### **G. Laboratory Procedures for Urine Testing**

1. All collection sites are staffed by professionals trained to take urine sample, assure sample integrity and follow chain of custody and control procedures.
2. Upon arrival, employees will be asked to provide positive identification and to remove and deposit all unnecessary outer garments and personal belongings.
3. Samples will be taken in private except when collection site staff believes that a particular individual may alter or substitute the specimen to be provided.
4. Direct observation by collection site staff is only permitted under the following circumstances:



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- a. The sample falls outside the normal temperature range.
  - b. A urine specimen provided on a previous occasion failed the specific gravity or creatinine concentration tests.
  - c. The employee's conduct clearly and unequivocally indicates an attempt to substitute or adulterate the specimen.
  - d. When a sample is collected under direct observation, the collection site person must be the same gender as the employee.
5. Laboratory personnel will follow procedures that ensure preservation of samples for additional testing that may be later required or requested by the employee.

#### **H. Interpreting Laboratory Results**

1. In order to safeguard against falsely accusing any employee of illegally using or of being under the influence of drugs, all laboratory results for which both initial and confirmatory tests are positive for a controlled substance will be sent to a Medical Review Officer (MRO).
2. The MRO shall be a medical doctor with knowledge of drug abuse disorders and specially trained to interpret and evaluate an individual's confirmatory positive test result, together with his or her medical history and other relevant biomedical information.
3. The MRO will interpret lab results, review the individual's medical history and/or records and, whenever possible, discuss the test results with the employee by telephone before making a final decision whether to verify a test result as positive.

#### **I. Confirmed Positive Tests**

1. If the test is verified as positive, the MRO shall notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen.  
If the employee requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHHS – certified laboratory for





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analysis.

2. If the analysis of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the SUSD and the employee.
3. The MRO may verify a test as positive without having communicated directly with the employee about the test in two circumstances:
  - a. The employee expressly declines the opportunity to discuss the test.
  - b. The District's representative have successfully made and documented a contact with the employee and instructed the employee to contact the MRO and more than five days have passed since the date the employee was contacted by the District.
4. Following verification of a positive test result, the MRO shall refer the employee to the Employee Assistance Program (EAP) and to the Human Resources office for further administrative action.

#### **J. Refusals to Test, Uncompleted Tests or Adulterated Tests**

1. Any employee who fails to cooperate with any part of the collection process or fails to provide an adequate quantity of urine without a valid medical explanation, within a period of up to two hours, or adulterates, dilutes, or substitutes the samples in any way, shall be deemed to have refused to submit to mandatory drug testing in violation of this policy.
2. Any such refusal shall also be deemed to constitute a verified positive drug test and subject the employee to administrative action in accordance with this policy.

#### **K. Alcohol and Controlled Substances Records and Reports**

1. Employee drug and alcohol testing results and records shall be maintained under strict confidentiality by SUSD, the testing laboratory and the MRO.



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2. Upon written request to the Human Resources office, SUSD will send employees copies of any and all documents related to their drug tests, including laboratory results with all numerical reports and MRO reports. All such documents shall be maintained at the District's Human Resources office.
3. SUSD shall only release information regarding the employee's drug test to either the employee or a person whom the employee designates in writing to receive it.

#### **IV. Consequences of Failing a Drug or Alcohol Test**

- A. Any SUSD Police Department employee determined to have a confirmed positive controlled substance test result shall be subject to disciplinary action up to and including dismissal in accordance with the applicable collective bargaining agreement.
- B. Any SUSD Police Department employee with an alcohol problem is strongly encouraged to admit his/her problem to a supervisor prior to testing. Admission of an alcohol problem will not relieve the employee of the obligation to complete biennial physical examination, reasonable suspicion, post-accident, or firearms discharge testing. Employees with an admitted alcohol problem, or who have a confirmed blood alcohol concentration, under the circumstances specified below will be referred to an SAP for evaluation and rehabilitation services as determined by the SAP. Any such employee shall be removed from performing any law enforcement functions until such time the employee has been evaluated by an SAP, completed any prescribed rehabilitation program and undergone return-to-duty testing.

The period of removal from law enforcement functions shall be unpaid, unless the employee elects to utilize accumulated paid sick leave, vacation and/or compensatory time. An employee can apply at any time for a paid leave, subject to Board approval. The cost of rehabilitation services prescribed by the SAP that are not covered by the EAP shall be paid by the employee. Any employee who has a confirmed blood alcohol concentration under the circumstances specified below, declines rehabilitation or fails to complete the rehabilitation plan prescribed by the SAP shall be subject to disciplinary action up to and including dismissal in accordance with the applicable collective bargaining agreement.



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Circumstances of a confirmed positive alcohol test:

1. .02 - .0399
  - a. First occurrence - Removal from law enforcement functions for at least 24 hours.
  - b. Second occurrence - Removal from law enforcement functions for at least 24 hours. Referral to SAP.
  - c. Third occurrence - Removal from law enforcement functions. Referral to an SAP. Disciplinary action as warranted and in accordance with the collective bargaining agreement.
2. .04 or above
  - a. First occurrence – Removal from law enforcement functions for at least 24 hours. Referral to an SAP. Rehabilitation as recommended by SAP. Return-to-duty testing. Following Testing. Disciplinary action as warranted.
  - b. Second occurrence – Removal from law enforcement functions. Referral to an SAP. Disciplinary action as warranted and in accordance with the collective bargaining unit.
- C. Before an employee returns to duty requiring the performance of law enforcement functions following satisfactory completion of an alcohol rehabilitation program, he/she must complete a return-to-duty test with a result indicating a blood alcohol level of less than 0.02%.
- D. Police personnel returned to duty after completing an alcohol rehabilitation program shall be subject to follow-up alcohol testing which shall consist of at least six tests in the first 12 months and, thereafter, for a period of up to 60 months as determined by the SAP.
- E. Any employee who has a confirmed blood alcohol concentration of 0.02% or greater upon post-accident or firearms discharge testing return-to-duty or follow-up testing shall be subject to disciplinary action up to and including dismissal in accordance with the applicable collective bargaining agreement.