**ARTICLE VI**

**SAFETY**

It is understood that safety standards and procedures for enforcement of same are adequately covered in portions of the government code and shall not be duplicated within the Agreement.

The Moorpark Educators’ Association reserves the right to appoint two members to the District Safety Committee.

The District shall make available to teachers copies of laws covering the discipline and rights of pupils. Pursuant to Education Code 49079, the District also shall notify teachers if it has reliable information that students under their supervision have been convicted or disciplined for violent behavior or for the possession of weapons.

Drugs, Alcohol, Tobacco, **and Vaping**

1. The District and the Association have an important interest in providing a safe, healthful working and learning environment for employees and pupils.

In this Article the following definitions apply:

1. Workplace. All District property and any place away from the District or where it is visible from the school site and/or District students are engaged in a school related activity.
2. Scope of Employment. Any duties performed as a District employee. Exclusions are: conferences, MEA and District social functions where District students are not present.
3. Reasonable Suspicion. A belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of a substance so that an employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his/her job safely is reduced. Reasonable suspicion may result from actual observation of the use or ingestion of a substance by an employee. It may be based on reliable information that the employee is currently using or has recently used or possessed a controlled substance, or open container with alcohol on the job. Reasonable suspicion may result from an observation of physical symptoms such as, but not limited to, slurred speech, red and/or watery eyes, unsteady gait, dilated pupils or sleeping on the job.
4. ~~Beginning September 1, 1995,~~ Vaping, smoking, using THC and use of tobacco products shall be prohibited on District property, including District parking lots, and in vehicles owned and operated by the Moorpark Unified School District. ~~The tobacco-free policy~~ This shall apply to all buildings, grounds, and vehicles, as well as to employees acting within the scope of employment while off campus.
5. The District encourages and will reasonably assist any employee with an alcohol or drug dependency to seek treatment or rehabilitation through available health benefits. The District will reasonably accommodate any employee with an alcohol or drug dependency, as long as such reasonable accommodation does not impose an undue hardship on the District. Sick leave and/or contractual unpaid leave may be used by an employee for treatment or rehabilitation of an alcohol or drug dependency by a physician or other professional specializing in such treatment or rehabilitation. An employee ~~will~~ may be permitted to participate in outpatient treatment and/or in-patient treatment before a final dismissal.
6. All employees must notify the Superintendent in writing within five (5) days of any drug statute conviction or of any driving under the influence of drugs or alcohol conviction for a violation occurring in any workplace or while the employee is acting within the scope of employment. A conviction includes any finding of guilt, including a no contest plea, or imposition of a sentence by any judicial body.
7. No employee shall manufacture, distribute, dispense, possess, consume, use, or be under the influence of alcohol or any controlled substance, including THC, in the workplace or when acting within the scope of employment. Any employee who manufactures, distributes, dispenses, possesses, consumes, uses, or is under the influence of alcohol or other controlled substance, including THC, at any workplace or while acting within the scope of employment or who is convicted of driving under the influence of alcohol or a controlled substance, including THC, with a pupil or another employee while acting within the scope of employment is subject to discipline up to and including termination ~~and may be dismissed~~, even for a first violation depending on the facts of the case.

Mere possession of sealed liquor products in a member’s vehicle is not in and of itself a matter for discipline unless otherwise prohibited by law.

1. ~~Any employee who manufactures, distributes, dispenses, possess, uses or is under the influence of illegal drugs or controlled substances at any workplace or any place while the employee is acting within the scope of employment is subject to discipline, up to and including dismissal, even for a first violation depending on the facts of the case. Any employee who is convicted or driving under the influence of alcohol or other illegal drugs or controlled substances, including THC, with a pupil or another employee while acting within the scope of employment may be dismissed, even for a first violation. Depending on the facts of the case.~~ (see 5. Above)

The terms illegal drugs and controlled substances include all chemical substances or drugs, including THC, listed in any controlled substances laws or regulations, such as the Federal Controlled Substances Act ~~of 1988~~ and California Health and Safety Codes, Sections 11054 to 11058.

The possession or use of prescription drugs under and consistent with the specific directions of a physician, which does not seriously impair the performance of an employee or render the employee unfit to work with to work with children is not prohibited.

1. The District has the right to search any District property, such as desks, lockers, cabinets, or other property at any time for any reason. However, a bargaining unit member’s locked desk may not be searched unless there is reasonable suspicion ~~or probable cause~~ related to prohibitions concerning drugs or alcohol.
2. A District official with authorization from the Superintendent or his/her designee may inspect an employee’s personal property when there is reasonable suspicion to believe that the employee is in violation of the prohibitions concerning alcohol, illegal drugs or controlled substances, including THC, and the employee is advised about the reason for the inspection. The employee may request an Association designated representative to be present during the inspection.

An employee’s personal property will not be inspected without the employee’s consent, but the District may discipline any employee up to and including dismissal if the employee refuses to consent to an inspection after being advised that a refusal to consent subjects the employee to discipline. However, such discipline will not be based solely on such refusal, but shall be based on all the facts of the case.

1. The District, when there is reasonable suspicion, may request that an employee submit to drug and alcohol testing. Reasonable suspicion normally requires either information from a person who is known and whose credibility can be carefully weighted or another reasonable ground for suspecting that the testing will turn up evidence that prohibitions concerning alcohol, illegal drugs, including THC, or controlled substances has been violated. A reasonable ground includes but is not limited to the employee appearing to be under the influence of alcohol or drugs, the employee being found in possession of alcohol or suspected controlled substances, including THC, the employee being involved in an accident whose nature indicates impairment of ability or judgement or the employee being involved in an incident in which a safety precaution was violated or a careless act was performed. The District also may request that an employee submit to drug or alcohol testing when the employee seeks to return to work after being absent for treatment or rehabilitation for alcohol or drug dependency.

An employee is not required to submit to drug or alcohol testing without the employee’s consent, but the District may discipline any employee up to and including dismissal if the employee refuses to consent to such testing. No discipline shall be imposed, however, unless the employee is advised about the reason for the testing and the employee refuses to consent to the testing after being advised that a refusal to consent subjects the employee to discipline. However, such discipline will not be based solely on such refusal, but shall be based on all the facts of the case.

Any consent or refusal to submit to the testing shall be in writing. If the employee consents to the testing, the employee also shall authorize in writing the release of the medical information. If the employee consents to the testing but refuses to authorize the release of the medical information, disciplinary action will not be taken because of that refusal. Disciplinary action, however, may be taken based on other available evidence. If the employee refuses to release the medical information to the District, it will not be available to assist the employee in any decision regarding discipline.

The District representative and an Association representative, if requested by the employee, may be present according to the policy and procedure of the lab or clinic and should escort the employee to the independent laboratory and/or clinic.

The independent laboratory and/or clinic requested to conduct any testing shall be instructed to:

1. Ask the employee to provide a specimen. Test the specimen for the presence of any prohibited substances.
2. Preserve and mark all specimens yielding positive results.
3. Return the lab report and any other information showing results to the District with written consent of the employee as specified in Section 9 of this article.

If the first laboratory test shows positive results, the specimen will be tested again using a different test methodology. The employee may be asked to provide an additional specimen under the procedures described above.

Any second test must confirm a positive first test for evidence of alcohol or drug use.

A District representative will attempt to interview any employee where a test shows positive results. The employee will be given an opportunity at such interview to explain the positive test result. If such explanation is satisfactory to the District representative, no discipline shall result from this test.

1. Testing reports will be treated similarly to other confidential personnel documents which have restricted access.
2. The District agrees to hold harmless, save and defend the Association and any officer, agent or employee thereof from any and all liability for damages or attorneys’ fees and costs arising out of any claim against the Association or such person or persons concerning the interpretation or application of these drug testing provisions.
3. The District and the Association intend that these provisions shall be interpreted so as to give effect to all constitutional and statutory rights of employees, and to provide employees freedom from unreasonable searches.