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Office of Employee Relations

July 27, 1989

VICE CHANCELLORS--ADMINISTRATION
ASSOCIATE LABORATORY DIRECTORS

Guidelines on Drivers and Drivers' Public Driving Records

Attached are administrative guidelines on drivers and drivers' public driving records, which are intended to aid the campuses and Laboratories in developing procedures for implementing the California Commercial Motor Vehicle Safety Act of 1988. The guidelines were developed by representatives of the Offices of Business Operations, Employee Relations, Labor Relations, and the General Counsel, and have been reviewed by Personnel Managers and Parking and Fleet Managers.

Since one of the laws containing these requirements became operative July 1, 1988 and the second July 1, 1989, it is important that campus and Laboratory procedures be established as soon as feasible. Local notification of affected employees should take place when procedures, including the list of affected positions and classes, are ready for implementation.

If members of your staff have questions, they may contact Kay MacFarland in Business Operations or Margaret Rader in Employee Relations.

Lubbe Levin
Assistant Vice President--
Employee Relations

Attachment

VICE CHANCELLORS--ADMINISTRATION
ASSOCIATE LABORATORY DIRECTORS
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cc: Senior Vice President Brady
Director Phillips
Director Scrudder
Managing University Counsel Odle
University Counsel von Seeburg
Acting Manager Kramp
Coordinator Rader
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Senior Analyst MacFarland
Personnel Managers

Office of the President
July 24, 1989

UNIVERSITY OF CALIFORNIA
GUIDELINES ON DRIVERS AND DRIVERS' PUBLIC
DRIVING RECORDS

LEGAL REQUIREMENTS

The California Commercial Motor Vehicle Safety Act of 1988 requires employers of drivers of certain types of vehicles to obtain reports of the driver's public driving record from the Department of Motor Vehicles (DMV). A public driving record includes incidents occurring while driving on and off the employer's business. Under Section 1808.1 (e) of the Vehicle Code, there are criminal penalties for employing or continuing to employ as a driver a person who has had a disqualifying action taken against his or her license or certificate.

This law applies to the University with regard to drivers who drive a vehicle requiring a class A or class B driver's license and drivers who must obtain special certificates to drive the following vehicles: ambulances, private school buses, farm labor vehicles, special construction equipment, youth buses, vehicles transporting radioactive materials, vehicles transporting hazardous wastes, and vehicles with tank configurations. Students, unless hired as a driver, and Van Pool drivers are not included. The law (Section 12810.5 of the Vehicle Code) also specifies the number of violation points assigned by the DMV that will result in a presumption that a driver is a negligent operator of a motor vehicle.

The University could be liable if a negligent driver was permitted to continue driving for the University and was involved in an accident.

PROCEDURES

Each campus or Laboratory shall develop procedures for implementing these legal requirements consistent with the following:

1. Coverage

Campus or Laboratory procedures shall apply to all University employees who are hired or used as drivers (including but not limited to the classes listed in Attachment A) and any University employee who, in the course of employment, drives a vehicle requiring a special license

or certificate. Campuses or Laboratories may designate additional titles or positions to be covered by these procedures.

2. Participation in DMV Notification Process

Each campus or Laboratory employing drivers shall petition the Department of Motor Vehicles (DMV) to participate in a "pull notice system", which is a process for providing the employer with a report showing each driver's current public record and the currency of any required certification. The University is considered a Government Agency for purposes of the pull notice system, and no fee will be assessed (see Attachment B).

Public driving records must be obtained for prospective employees and for current employees. Managers of positions falling within the parameters of these procedures shall be made aware that no final appointments may be made until appropriate documentation has been received from the DMV. New hires shall be required to provide a current pull notice or report on the status of their license from the DMV as a condition of employment.

Each location shall designate an appropriate department or departments to request and coordinate the information received from the DMV. Campus police departments may be able to assist with receiving information from the DMV.

Campus and Laboratory procedures shall address how reports are received, disseminated, and retained in order to protect confidentiality to the extent legally permissible.

Upon termination of a driver's employment, the University shall notify the DMV to cancel any future reports.

3. Notification to Employee

Campus and Laboratory procedures shall specify the means by which prospective employees and current employees shall be informed that the University receives reports of their public driving record from the DMV and that these reports may be used as a basis for discipline up to and including dismissal, or may result in non-selection for a position as a driver. Current and prospective employees also shall be notified that they are responsible for maintaining their required license or certificate in good standing and for keeping management advised concerning any change in the status of their license. They shall be notified that loss of license (revocation or suspension) or a bad driving record may result in loss of employment with the University.

4. Response to Information Received from the DMV

Departments receiving reports of convictions, failures to appear, accidents, driver's license suspensions, revocations, or other actions taken against an employee driver shall consult with the Personnel Office or Labor Relations Office in determining appropriate action.

In determining appropriate action, the following shall be considered:

- a. Employers are liable for criminal penalties if, after receiving the driving record, they continue to employ as a driver any person against whom a disqualifying action (suspension or revocation) has been taken regarding his or her driving privilege or required driver's certificate (Section 1808.1(e) of the Vehicle Code).
- b. The law states that a driver will be presumed to be a negligent operator of a motor vehicle if his or her driving record shows a violation point count (Attachment C) of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months (Section 12810.5 of the Vehicle Code).
- c. Any disciplinary action shall be taken in accordance with the appropriate personnel policy or collective bargaining Agreement. A case-by-case analysis is required. If the violation is sufficiently serious, management has the discretion to suspend or terminate a driver even though a disqualifying action has not been taken against the license or the point count is not sufficient to cause the driver to be presumed by the DMV to be a negligent operator. In other situations, work history or other considerations may suggest that an employee who has lost his or her license or who is presumed by the DMV to be a negligent operator should be transferred or reassigned rather than terminated.
- d. It is appropriate to issue an individual warning, written or oral, whenever an employee's public driving record indicates that one or more points have been assigned by the DMV. The warning should inform employees that their license must be maintained in good standing, that they must advise management regarding any change in the status of their license, and that loss of license (revocation or suspension) or a bad driving record may result in loss of employment with the University.

Attachment A

OER: 6/1/89

Examples of Classes of Employees Hired As Drivers

<u>PERB</u>	<u>Title Code</u>	<u>Title</u>
SX	4823	Mail Processor
	5066	Delivery Worker
	5207	Rescue Worker
	8483	Driver
	8485	Principal Automotive Equipment Operator
	8486	Senior Automotive Equipment Operator
	8487	Automotive Equipment Operator
	8535	Laundry Truck Driver
	8553	Truck Driver
	8563	Equipment Operator
99	8552	Supervising Truck Driver