

Chapter 9 – Motor Vehicle Accident Procedures

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9.1 Foreword

The purpose of an accident investigation is not to find fault or establish blame. The purpose is to find ways to prevent the occurrence of similar accidents in the future. To fulfill this purpose, the investigation gathers facts related to the accident, determines causes, and develops corrective actions to preclude preventable accidents from reoccurring in the future.

9.2 Introduction

Santa Clara County minimizes employee vehicle accidents through driver training, review of employees' Department of Motor Vehicle driving records, vehicle maintenance, and accident review procedures. This document contains the procedures for reviewing employee vehicle accidents. Please refer to the Accident Review Procedure Flow Chart to help clarify and assist you in the appropriate order of completion of the various elements described within this procedure.

9.3 Reporting Accidents

A copy of the "Santa Clara County Vehicle Accident/Incident Report" (Form #1542) must be kept in all County vehicles along with the registration and evidence of financial responsibility.

Employees must notify their immediate supervisor of any accident involving a vehicle, personal or County, while on County business (failure to do so can result in disciplinary action). Complete the County "Vehicle Accident/Incident Report" form as soon as possible, and give the completed form to your supervisor. (Please note if police were called, department was notified, third party, etc.)

Supervisors review the Vehicle Accident/Incident Report with the employee to ensure completeness (instructions are included on the form) then send the Report to ESA Insurance. (Pony to 1735 North First Street, Suite 108; San Jose, CA 95112; Phone: 408.392.3460; FAX: 408.441.6498)

9.4 Accident Review

The purpose of accident review is to gather facts, identify causes and take action to prevent future accidents. Most vehicle accidents have multiple causes. The root cause of the accident may involve factors other than the actions of the driver. However, in most cases, the primary cause is driver error with secondary contributing factors, such as inadequate supervision, a change in department policy/procedure, or use of an improperly equipped vehicle. A thorough accident review will usually reveal multiple causes.

ESA Insurance will review all employee vehicle accident reports, regardless of the severity of the accident, and determine if the employee's supervisor should conduct a further review. If so, ESA Insurance will send a "Supervisor's Review of Employee's Motor Vehicle Accident" form (Form #101) to the supervisor to complete and return.

Supervisors will review the accident with the employee to determine the cause(s). Questions to be asked include:

- Does it appear to be driver error on the part of the employee, the other driver, or a little of both?
- Was there a mechanical problem?
- Was the employee adequately trained and supervised?

- Were department policies and procedures followed?

If the supervisor received a "Supervisor's Review of Employee's Motor Vehicle Accident" form from ESA Insurance, the supervisor must complete and return it as soon as possible. Take action to prevent a reoccurrence by using recommended corrective action guidelines.

ESA Insurance will help departments conduct their accident review when the accident involves major injuries or damage, when the driver has a history of multiple accidents, or when requested by the department. ESA Insurance maintains a central file of all vehicle accident reviews.

9.5 Remedial Action

Remedial actions must include driver evaluation and refresher training, but they can also include counseling or disciplinary action.

9.5.1 Driver Evaluation

One of the first steps in taking remedial action is to arrange for a behind-the-wheel ride and evaluation of the employee to determine his/her driving skills using the "Driving Practices Observation" form, if deemed appropriate.

Supervisors must contact ESA Insurance to coordinate the two-hour behind-the-wheel "Driving Practices Observation" review, if deemed appropriate, by a professional driver trainer BEFORE the employee is allowed to drive on County business.

9.5.2 Driver Training

In all cases, the employee must take a refresher driver training course. This can be either a class or a video, depending on the judgment of the department supervisor and recommendation of ESA insurance. Drivers training classes are held on a monthly basis and can be scheduled through ESA Insurance (408.392.3460).

Supervisors shall assure that the employee completes refresher driver training before being allowed to drive on County business.

9.5.3 Disciplinary Action

Disciplinary action may be appropriate in accidents where the driver:

- Flagrantly or intentionally violated motor vehicle laws or department/County policy as determined during the review of the accident facts.
- Is repeatedly involved in preventable accidents, even after the department has applied remedial actions.
- Is unable or unwilling to safely operate a motor vehicle on a consistent basis.

The following guideline of accident causes will help you in classifying the suggested severity of the discipline.

9.5.4 Recommended Corrective Action Guideline

In accordance with Section 210.70, Safe Driving Program of the Procedures Manual, corrective measures are designed and intended to encourage safe driving and shall be used whenever ESA

Insurance requests an Accidental Review Procedure to be performed. Such measures may include but are not limited to:

- driver training
- revision of job assigned
- a two-hour behind-the-wheel driving observation review
- counseling
- suspension without pay or revocation of the employee's driving permit.

Revocation of the employee's driving permit will be made by ESA Insurance after a case-by-case review. Prior to revocation, ESA Insurance will have discussions with the employee's department for input and concurrence.

It is important to note that the following "Disciplinary Action Legend" is a guideline in response to degree of cause of driving accident. It is the discretion of the department to either suspend and/or put the employee on probation in lieu of suspension depending on degree of cause. In all incidents, employees are to take a refresher driver's training course. The training can be either a classroom setting or programmed video, depending on degree of cause as deemed appropriate by the department. Disciplinary suspensions without pay are actions of last resort and should be weighed carefully prior to implementation.

9.5.5 Disciplinary Action Legend

<u>Degree</u>	<u>Action</u>
0 degree	No action taken.
1 degree	1 day suspension and/or 6 months probation, drivers training course.
2 degree	2 day suspension and/or 12 months probation, drivers training course.
3 degree	3 day suspension and/or 18 months probation, drivers training course.
4 degree	As applicable with MOU agreements, drivers training course.
5 degree	As applicable with MOU agreements, drivers training course.

NOTE: Action taken per degree is recommended minimum action items. The department may or may not impose more stringent forms of disciplinary action as they deem appropriate. ESA Insurance will be available to assist and facilitate this procedure with the department to insure consistent action to degree of cause of accident.

9.5.6 Example of Disciplinary Action

After review of all accident circumstances (interview, employee report, police report, damage reports, etc.) and it is determined that an employee made an illegal, unsafe or ill-advised backing (see below Degree #2, Cause of Accident #26) the recommended action for the supervisor may be to suspend the employee for two days and/or put the employee on 12 months probation and require a drivers training course. However, if this is a first offense, the supervisor may waive suspension and put the driver on 12 months probation with a drivers training course. If however,

this is a second driving violation within the probation period, the supervisor may impose the maximum disciplinary action of two days suspension and 12 months probation with drivers training course. **Department supervisors and managers are urged to consult, prior to initiation of discipline, with the Department of Labor Relations if contemplating employee disciplinary actions.**

The following list of accident causes will guide you in classifying both the cause of the accident and the degree of severity.

<u>Degree</u>	<u>Cause of Accident</u>
0	1. Responsibility cannot be determined.
0	2. Negligible damage.
0	3. Damage caused by striking birds, rocks/debris thrown by other vehicle, road tar or paint spray.
0	4. Damaged while legally parked and unattended.
0	5. Mechanical failure.
0	6. Damaged while properly performing in line of duty.
0	7. Failure to allow for weather conditions
1	10. Failure to observe. Examples: Failure to observe objects or automobiles, stationary or in motion. Failure to ascertain clearance and freedom of hazards to rear of vehicle when backing.
1	11. Lack of Forethought. Examples: Failure to secure doors, tailgates, etc., before moving a vehicle. Failure to allow clearance for loads and equipment.
1	12. Leaving vehicle improperly parked.
1	13. Turning from wrong lane of traffic.
1	14. Failure to signal
1	15. Improper loading.
1	16. Failure to wait until move can be safely made.
2	20. Usurping right of way. Examples: Unauthorized use of siren. Failure to yield to pedestrians.
2	21. Lack of control due to inattention to driving.
2	22. Lack of care or judgment in entering or leaving parking space.
2	23. Following too closely.

- 2 24. Cutting in on moving vehicles
- 2 25. Disregard of safety orders or rules.
- Examples: Where any failure to adhere to safety instructions and orders was a contributing cause of the instructions and orders was a contributing cause of the accident or injuries. Failure to fasten automobile seat belts properly.
- 2 26. Illegal, unsafe, or ill-advised backing.
- 2 27. Lack of care or judgment while operating a county vehicle in a 4 wheel drive configuration.
- 2 28. Too fast for conditions.
- 2 30. Excessive or unsafe speed.
- Examples: A speed that is greater than is prudent for driving conditions at the time. A speed in excess of that which is permitted by law or dictated by common sense for control.
- 3 31. Failure to stop at boulevards, traffic signals, or railroad crossings.
- 3 32. Unsafe passing.
- 3 33. Driving on wrong side of street or highway.
- 4 40. Asleep at the wheel.
- 4 41. Reckless driving.
- Example: When a vehicle is driven with a willful or wanton disregard for the safety of persons or property.
- 5 50. Intoxication, or under the influence of intoxicants or drugs.

Suggested disciplinary actions can include:

- Verbal or written counseling in cases involving minor accidents for first time offenses.
- Temporary or permanent suspension of the driver's County driver permit due to the driver's inability to drive safely.
- Letter of reprimand or unfavorable report for certain repeated offenses.
- Suspending a driver without pay for one or more days for flagrant violations of rules or abuse of vehicles or repeatedly being involved in preventable accidents. Such action should be considered a last resort and should be weighed carefully before being implemented.
- Other corrective actions appropriate to the situation/circumstances.

Supervisors shall consider disciplinary action as a corrective option when other remedial actions fail or are inappropriate. Of course, any disciplinary action should be appropriate and consistent; call Labor Relations at (408) 299-3223 for advice before taking any such action.

9.6 Appeals

The causes of the majority of accidents are clear. Occasionally, however, an employee may believe that the cause of his/her accident was incorrectly determined and may appeal the finding or suspension of County driving privilege.

If the driver asks about an appeal, supervisors must review the facts of the accident with the employee to determine if something was overlooked. Supervisors must check with the ESA Insurance Division to see if additional information is available.

If, after reviewing all the facts of the accident, the employee still does not agree with the findings, he/she may make a final appeal to the County-wide Accident Review Board or an approved Departmental Accident Review Board (if available).

A written memorandum to the ARB is to be submitted to ESA Insurance with all back up documentation and the specific reason(s) for the appeal. If ESA Insurance requires additional information for classification they will request it in writing to the appellant.

9.7 Applicable Regulations

CAL/OSHA, Title 8, CALIFORNIA CODE OF REGULATIONS, Section 4851