



Policy: 02-74-00

Drug-Free Workplace

OFFICE OF RECORD: Business Office

ISSUED BY: Director of Human Resources

APPROVED BY: 02-74-00

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Policy

It is the policy of Dakota State University to create and maintain a drug-free work and study environment. The improper use of controlled substances or alcohol is inconsistent with the professional and responsible behavior we expect of employees and students. It also subjects all employees, students, and visitors to our facilities to unacceptable health and safety risks and undermines Dakota State University's ability to operate effectively and efficiently. Therefore, the employees and students of DSU are strictly prohibited from engaging in the unlawful or unauthorized manufacture, distribution, sale, possession, or use of alcohol or a controlled substance on University owned or controlled property, being present in any University controlled area where such activity is believed to take place, or as part of any of its activities or employments. Employees shall not be under the influence while on duty.

Please refer to Attachment A, Board of Regents Policy for exceptions when possession, use, or distribution of alcohol or controlled substances is permitted on premises controlled by the Board.

Each employee will, as a condition of employment, agree to abide by the terms of this policy. Employees who are convicted of a criminal drug offense occurring in the workplace must notify the Personnel Office no later than five days after such conviction. For purposes of this policy, College Work Study students are also considered employees.

Failure of a student to abide by the terms of this policy may affect financial aid eligibility. As a condition of receiving a Pell grant, students must certify that they will abide by this policy at all times during the period covered by the Pell grant.

An Employee/Student Assistance Program is available and designed to offer the employee or student assistance with a drug- or alcohol-abuse problem before the

condition renders them unemployable and/or incapable to function in an academic environment. All referrals will be kept confidential.

The Human Resources Office and Student Services at Dakota State University, with the assistance of the State Department of Health, Division of Alcohol and Drug Abuse, and the Dakota State Student Health Nurse will conduct an ongoing drug-free awareness program in order to inform the employees and students about:

- the dangers of substance abuse and the associated health risks (Attachment 2);
- the University's policy on maintaining a drug-free environment;
- the availability of drug or alcohol counseling, treatment, rehabilitation, and employee or student assistance programs (Attachments 1 and 3); and
- the legal sanctions under state law for the unlawful possession or distribution of illicit drugs and alcohol (attachment 4).

The information above will also be published annually in the Faculty/Staff and Student Handbooks.

In 1992, and biennially thereafter, Dakota State University will report to the Board of Regents:

1. evidence of the effect of this program in reducing academic, social and employment problems associated with the use of such substances; (this evidence may include, but is not limited to tracking (a) the number of drug- and alcohol-related disciplinary sanctions imposed; (b) the number of drug- and alcohol-related referrals for counseling or treatment; and (c) the number of students or employees attending self-help or other on-campus programs related to alcohol or drug abuse.)
2. any changes in DSU policy that might enhance program effectiveness; and
3. data showing what disciplinary measures were imposed on students or employees pursuant to the foregoing policies.

Procedures

The unlawful manufacture, distribution, sale, possession, or unauthorized use of alcohol or a controlled substance by students or employees of Dakota State University while on Dakota State property or while participating in any capacity in activities or employments sponsored by DSU is prohibited.

Employees or students who violate any aspect of this policy are subject to disciplinary action, up to and including termination from employment or dismissal from school. They may be required, at DSU's discretion, to participate in and suc-

cessfully complete a drug-abuse treatment or rehabilitation program as a condition of continued employment or enrollment.

Employee Violations

An employee who violates this policy may be suspended from service immediately. Where the infraction constitutes a felony offense under South Dakota or federal law, the essential facts of the infraction will be reported to the proper law enforcement official. Upon completion of an institutional investigation, the President will make a determination on the status of the employee. Referral to law enforcement authorities will not require suspension of disciplinary proceedings nor delay imposition of discipline. Investigations and disciplinary actions will follow procedure as detailed in the COHE contract, Bureau of Personnel rules, or the Board of Regents policy manual, whichever is applicable.

If any member of the University community has reasonable cause to believe a student or an employee has violated this policy, he or she has the responsibility to inform the appropriate member of the Resident Life staff (Dean of Student Affairs for commuter students) or the Personnel Director so that appropriate action may be taken.

Employees who are convicted of offenses involving controlled substances in the workplace (including those who plead "nolo contendere"--i.e., no contest) must inform the Human Resources Office within five days of the conviction or plea. Within 10 calendar days of receiving notice of the conviction, DSU will provide written notice to every grant officer on whose grant activity the convicted employee was working. Within 30 days of receipt of notice, DSU shall: 1) take appropriate personnel action against the employee, up to and including termination, and; 2) in the event that the personnel action stops short of termination, require such employee, at the employee's expense, to participate in an approved drug abuse assistance or rehabilitation program.

The University reserves the right to examine property on its premises where it has reasonable grounds to believe that an employee has broken the law or violated institutional rules or where necessary to obtain information in the employees absence for management purposes.

Student Violations

As a condition of receiving a Pell grant, students must certify that they will not violate this policy during the period covered by the Pell grant. Failure to sign the certification will result in the student not receiving the Pell grant. A Pell grant recipient convicted of a criminal drug offense resulting from a violation occurring during the period of enrollment covered by the Pell grant must report the conviction, in writing, within 10 calendar days of the conviction, to the Director, Grants

and Contracts Service, U.S. Department of Education. The Pell grant recipient shall be subject to suspension of payments under the grant, suspension or termination of the grant, or suspension or debarment.

A student who violates this policy (with regard to controlled substances) will be referred to the University Disciplinary Board for appropriate disciplinary action unless the alleged violation constitutes a felony offense under South Dakota or federal law. Should the severity of the alleged offense require that the matter be turned over to local authorities, University action will follow after completion of the local process. If the University Disciplinary Board finds a student in violation of this policy, sanctions will be imposed as outlined in the Student Handbook.

In the case of a first alcohol violation, the appropriate Student Services staff may deal with the student. A second alcohol violation will result in a referral to the Disciplinary Board.

Sanctions/Appeals

In each case involving the imposition of a sanction, a person has the right to appeal either the finding or the sanction to a higher authority. Employees are to follow procedure outlined in the COHE contract, Bureau of Personnel rules, or the Board of Regents policy manual; whichever is appropriate to the employee's classification. Students are to follow procedure outlined in the Student Handbook.

Employee/Student Assistance

Employees who seek help for a drug and/or alcohol problem from a supervisor will be referred to an appropriate drug or alcohol counseling, treatment, or rehabilitation program. Cost of treatment will be the responsibility of the employee seeking assistance. Currently, the state's group health insurance plan provides benefits for diagnosis and treatment of alcoholism and substance abuse. (See Attachment 1.)

Students who seek help for a drug and/or alcohol problem from an advisor or other employee of the University will be referred, through the Student Affairs staff, to an appropriate drug or alcohol counseling, treatment, or rehabilitation program. For students paying the Health Service Fee, limited treatment may be available free of cost, with additional treatment available on a sliding fee schedule.

The referral is designed to offer the employee or student assistance before the condition renders them unemployable and/or incapable to function in an academic environment. Participation in such counseling or treatment will not affect career advancement or academic standing. All referrals will be kept confidential and will not become part of the employee's personnel or student's academic file.

Definitions

For the purposes of this Policy, these terms are defined as follows:

ALCOHOL - Any liquor, wine, beer, or other alcoholic beverage.

CHEMICAL DEPENDENCY - A condition caused by the continued use of drugs, lasting a considerable length of time and expected to limit the person's functional ability.

CONTROLLED SUBSTANCES - All forms of narcotics, depressants, stimulants, hallucinogens, and cannabis, whose sale, purchase, transfer, use or possessions is prohibited or restricted by law.

DRUGS - Any drug, including illegal drugs, marijuana, inhalants, legal prescription and over-the-counter drugs used or possessed or distributed for unauthorized purposes, and counterfeit (look-alike) controlled substances.

SUBSTANCE ABUSE - The use of drugs or alcohol in violation of state or federal law or in violation of University policy.

UNDER THE INFLUENCE - Can be measured by the employee's impaired job performance, or the student's impaired academic performance or exhibition of unacceptable social behavior resulting from substance abuse and/or use of alcohol. The particular quantities of alcohol or drugs used to determine if one is under the influence will be established in consultation with appropriate medical authorities or by state statute.

Attachment A

Board of Regents Policy
Section 4:27

The South Dakota Board of Regents strictly prohibits the unlawful possession, use or distribution of alcohol, marijuana or controlled substances by its students or employees while property controlled by the Board or while participating in any capacity in activities or employments sponsored by it.

No possession, use or distribution of alcohol, marijuana or controlled substances is permitted on premises controlled by the Board of Regents, except:

- when needed in conjunction with approved research activities;
- when alcohol is possessed, used or distributed in a lawful manner inside a dwelling occupied by an employee who, as a condition of employment, is required to maintain a residence on premises controlled by the Board of Regents;

- when alcohol is possessed, used or distributed in a lawful manner on premises controlled by the Board of Regents which have been designated by the institutional president as places where such possession, use and distribution may be permitted, subject to such conditions as the institutional president may also prescribe, provided that a notice of such designation and conditions have been filed previously with the executive director; or
- when the possession, use or distribution of the controlled substance is incidental treatment by a licensed health care professional authorized to prescribe such substances.

Attachment 1

HEALTH INSURANCE PROVISIONS

Alcoholism and Substance Abuse

State employees hired on a permanent bases and eligible to receive annual and/or sick leave and other non-cash benefits are covered under the State's group health insurance plan through the Bureau of Personnel. Currently, the insurance provides inpatient and outpatient treatment for mental and nervous conditions and alcohol and substance abuse by a qualified licensed provider (up to Plan Year Maximums and Lifetime Maximums).

The following is a summary of the Plan Year Maximums as they apply to treatment or counseling of alcohol and substance abuse.

Plan Year Maximums¹

Feature State Provider Network, \$500 Deductible, and \$1,000 Deductible Plans
Each Plan Year, benefits are limited to...

Treatment of alcoholism and substance abuse Outpatient

Inpatient* \$2,000

30-day maximum

NOTE: You are responsible for keeping track of all limits or maximums. You will not be notified when you're getting close to an annual or lifetime benefit maximum.

¹Plan Year begins on July 1stand ends on June 30th of the following year.

*For full benefits, services must be preauthorized.

Life-time maximum for inpatient treatment of alcoholism and substance abuse is 90 days.

Attachment 2: Health Risks

Attachment 3: Alcohol / Drug Treatment Facilities / Inpatient Treatment Facilities

Attachment 4

LEGAL SANCTIONS - CONTROLLED SUBSTANCES

The unlawful use of alcohol or controlled substances exposes students and employees to criminal prosecution by local, state, or federal authorities. Immediate penalties may range from fines, to loss of driving privileges, to jail time. Under South Dakota law, the penalties for unlawful possession, use, or distribution of illicit drugs range from a maximum penalty of 30 days in jail and/or \$100 fine for possession of one ounce or less of marijuana, to a maximum 25 years in the state penitentiary and/or \$25,000 fine for a Class 2 felony for distribution to minors of a controlled substance with a high potential for abuse (SDCL 22-42-1 to 22-42-16). Class 2 and Class 4 felonies require a mandatory sentence of at least 30 days in the state penitentiary, none that may be suspended.

In addition, criminal proceedings and criminal sanctions interrupt normal educational or employment activities and may force individuals to withdraw from the University and to terminate employment. A criminal record is permanent and may create a stigma that may last a lifetime. Existence of a criminal record affects future employment and minimizes contributions that an individual can make to the community.