

VI-8.00(A) UNIVERSITY OF MARYLAND POLICY ON EMPLOYEE ALCOHOL AND OTHER DRUG ABUSE

(Approved by the President September 9, 1992; technical changes November 2009; technical changes September 2014.)

The University of Maryland is dedicated to the pursuit and dissemination of knowledge. The illegal or abusive use of drugs or alcohol by members of the campus community jeopardizes the safety of the individual and the campus community, and is inimical to the academic learning process. The University is therefore committed to having a campus that is free of the illegal or abusive use of drugs and alcohol. In keeping with this commitment, it is the policy of the University that the illegal or abusive use of drugs or alcohol is prohibited on University property or as part of University activities. The University will not hire anyone who is known currently to abuse drugs or alcohol.

In order to inform all University employees of their responsibilities under this policy, and to meet the University's responsibilities as set forth in the Drug-Free Schools and Communities Act Amendments and the Maryland Higher Education Commission's Policies Concerning Drug and Alcohol Abuse Control, the following information is provided:

- I. Prohibited Conduct
- II. Disciplinary Sanctions that the University will Impose on Employees
- III. Alcoholic Beverages on University Premises
- IV. Policy on Possession or Use of Common Containers of Alcohol
- V. Purchase of Alcoholic Beverages
- VI. Legal Sanctions under Federal, State and Local Laws Relating to Alcohol and Drug Use
- VII. Health Risks
- VIII. Drug and Alcohol Programs Available on Campus

I. PROHIBITED CONDUCT

The following policies and rules are consistent with those mandated under the Federal Drug Free Workplace Act of 1988, and the State of Maryland Substance Abuse Policy.

- (1) All employees in the workplace must be capable of performing their duties.
- (2) Employees are prohibited from:
  - (a) Abusing alcohol or drugs;
  - (b) Committing a controlled dangerous substance offense;
  - (c) Committing an alcohol driving offense;
  - (d) Working under the influence of alcohol;
  - (e) Working under the inappropriate influence of prescription drugs or over-the-counter drugs;
  - (f) Working under the influence of a controlled dangerous substance

- (3) When the University learns or, based on observation or reliable information, suspects that an employee has committed a controlled dangerous substance or alcohol offense at the workplace, the University shall refer the matter to an appropriate law enforcement authority for further investigation and prosecution.
- (4) All employees shall cooperate fully with law enforcement authorities in the investigation and prosecution of suspected criminal violations.
- (5) An employee charged with an alcohol driving offense or a controlled dangerous substance offense shall report a finding of guilty, an acceptance of a plea of nolo contendere, or a probation before judgment to his or her supervisor within 5 work days.
- (6) The supervisor shall report the final conviction of an alcohol driving offense or a controlled dangerous substance immediately to the Director of University Human Resources, and in the case of a controlled dangerous substance offense only, to the Director of the Office of Research Administration and Advancement (“ORAA”). In the event it is determined by the University that an employee convicted of a controlled dangerous substance offense which occurred in the workplace was employed in the performance of a federal contract or grant, the Director of ORAA shall notify the sponsoring federal agency within 10 days of receiving notice from the employee or otherwise receiving actual notice thereof.

“Controlled substances” and “illegal drugs” prohibited under this policy are those set forth in Md. Ann. Code Criminal Art., Sections 5-401 through 5-406. “Sensitive employee” means an employee whose classification or position has been designated sensitive by the University. “Sensitive employees” include, but are not limited to, campus police officers and employees whose job duties require them to have a Commercial Driver’s License.

## II. DISCIPLINARY SANCTIONS THAT THE UNIVERSITY WILL IMPOSE ON EMPLOYEES

- (1) The first time a sensitive employee is convicted of an at-the-workplace alcohol driving offense, or found under the influence of alcohol while at-the-workplace, the employee shall be suspended for 15 days and required to successfully participate in an alcohol treatment program designated by the University’s Faculty/Staff Assistance Program (“FSAP”).
- (2) A sensitive employee convicted of an off-the-workplace alcohol driving offense, and a non-sensitive employee convicted of any alcohol driving offense shall:
  - (a) On the first conviction be referred to the FSAP, and in addition, be subject to any other appropriate disciplinary actions;
  - (b) On the second conviction, at a minimum, be suspended for at least 5 days, be referred to the FSAP, be required to participate successfully in a treatment

- program, and in addition, be subject to any other appropriate disciplinary actions, up to and including termination;
- (c) On the third conviction, be terminated.
- (3) A sensitive employee convicted of any controlled dangerous substance offense shall be terminated.
  - (4) A sensitive employee who tests positive for a controlled dangerous substance as a result of a random drug test shall be suspended for 15 work days and be required to successfully participate in a drug treatment program designated by the FSAP.
  - (5) A sensitive employee who abuses a legally prescribed drug or an over-the-counter drug shall, on the first offense:
    - (a) Be suspended for 5 work days; and
    - (b) Be required to participate successfully in a drug treatment program designated by the FSAP.
  - (6) General Sanctions. Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary action under applicable University personnel policies and applicable penalties contained in the Annotated Code of Maryland, State Personnel and Pensions Article. Disciplinary action includes sanctions up to and including termination. As a condition of continued employment, the University may require an employee to successfully participate in a drug or alcohol abuse assistance or rehabilitation program.

### III. ALCOHOLIC BEVERAGES ON UNIVERSITY PREMISES

The Stamp Student Union and Campus Programs' Alcohol Policy, found in their Event Management Handbook, controls the use, possession or distribution of alcohol by employees on University premises at University sponsored activities. This policy prohibits the possession or use of alcohol by any person under the age of 21 or the furnishing of alcohol to a person known to be under the age of 21. Alcoholic beverages otherwise may not be possessed, consumed or distributed by employees at University sponsored events occurring on University premises for which a state or local alcohol license is required, unless the sponsor of the event has complied with the Stamp Student Union and Campus Programs' Alcohol Policy guidelines and has obtained advance written approval from the Campus Reservations Office. Copies of the Handbook are available from Stamp Event Services in 1133 Stamp Student Union, and at [http://thestamp.umd.edu/events/event\\_services/event\\_management\\_handbook](http://thestamp.umd.edu/events/event_services/event_management_handbook). Questions about state and local alcohol license requirements may be directed to the Campus Legal Office at 405-4945.

### IV. POLICY ON POSSESSION OR USE OF COMMON CONTAINERS OF ALCOHOL

- (1) **Prohibited Conduct.** The University prohibits the possession or use of kegs, beer balls, punch bowls, and other common containers of alcoholic beverages of a similar nature on University property, except for possession and use resulting from licensed purchases by the University's Department of Dining Services.
- (2) **Disciplinary Sanctions.** The University may take appropriate legal action, including but not limited to issuance of no access citations or institution of trespass proceedings against any individual found in violation of this policy. If the individual is a student or an employee of the University, additional administrative penalties may also be taken.

## V. PURCHASE OF ALCOHOLIC BEVERAGES

Alcoholic beverages may not be purchased with federal, state, or other funds under the University's administrative control. The only exceptions to this are:

- (1) Alcoholic beverages purchased strictly for resale, i.e., paid for from an individual or group's private funds, not from a University or state assigned account number. Strict accounting procedures must be maintained to insure that University funds advanced to pay for such beverages are repaid from sale of the beverages.
- (2) Alcoholic beverages purchased from funds which have been paid into a University or state assigned account for the express purpose of purchasing alcoholic beverages, for example, a non-credit short course in wine and cheese tasting. Such exceptions must be approved in writing and in advance by the Office of the Vice President for Administrative Affairs.

## VI. LEGAL SANCTIONS UNDER FEDERAL, STATE AND LOCAL LAWS RELATING TO ALCOHOL AND DRUG USE

Employees at the University of Maryland are subject to federal, state, and local laws for the possession and distribution of illegal drugs.

Federal law states that it is unlawful to possess a controlled substance, including marijuana, cocaine, LSD, PCP, heroin, designer drugs, etc.<sup>1</sup> If the substance is cocaine, or contains a cocaine base, the penalty for simple possession is a fine and/or imprisonment from 5 to 20 years. In February 2000, a law was enacted to categorize gamma hydroxybutyrate (GHB), better known as the "date rape drug," like heroin or cocaine. This means that anyone possessing, manufacturing or distributing GHB may face up to a 20-year penalty. For other illegal drugs, the penalty for simple possession is a fine of at least \$1000 and/or imprisonment up to 3 years. The penalties increase if the possession includes intent to manufacture, distribute, or dispense a controlled substance, especially if done near a public or private elementary, vocational, or

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<sup>1</sup> Federal Law Title 21 USC, Sections 841 and 844 to 845

secondary school or a public or private college or university. Additionally, any person who violates this law shall be liable for an amount up to \$10,000 in civil penalties.

In addition to federal laws, the State of Maryland has its own laws dealing with distribution, manufacturing, and possession of controlled substances. For instance, any person who unlawfully manufactures or distributes any narcotic drug may be fined up to \$25,000 and may be imprisoned for up to 20 years for a first offense.<sup>2</sup>

University employees are subject to state and local laws for drinking and obtaining alcohol. It is illegal in Maryland for any person under 21 to drink alcohol.<sup>3</sup> It is also illegal for a person under 21 to falsify or misrepresent his or her age to obtain alcohol, or to possess alcoholic beverages with the intent to consume them.<sup>4</sup> It is also illegal in most situations to furnish alcohol to a person under 21.<sup>5</sup> The penalty is a fine of up to \$500 for a first offense, and up to \$1000 for repeat offenses.

In addition, state law dictates that it is illegal to possess alcohol in an open container in any parking lot of any shopping center or retail store, unless given permission by the owner. The penalty is a fine of up to \$100.<sup>6</sup> It is also illegal to consume alcohol on any public property or highway, unless authorized by the governmental entity which has jurisdiction over the property, with penalties including a fine of up to \$100.<sup>7</sup>

Employees are also subject to state and local laws governing drinking and driving. A person may not drive or attempt to drive under the influence of alcohol or under the influence of alcohol per se.<sup>8</sup> Individuals under 21 with a blood alcohol level (“B.A.L.”) of only .02 (approximately 1 drink) will be charged with a violation of a restricted license and result in suspended license until the age of 21.<sup>9</sup> A person with a B.A.L. of 0.08 will be presumed to be driving under the influence of alcohol.<sup>10</sup> Also, an individual with a B.A.L. of 0.08 or more shall be determined to be “under the influence of alcohol per se.”<sup>11</sup> It is also unlawful to drive while impaired by any Controlled Dangerous Substances whether or not they are illicit (prescribed or unlawfully obtained).<sup>12</sup> A person can still be charged with these violations even though they possess a driver’s license from another state.

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<sup>2</sup> Md. Ann. Code Criminal Art., Section 5-608

<sup>3</sup> Md. Ann. Code Criminal Art., Section 10-114

<sup>4</sup> Md. Ann. Code Criminal Art., Section 10-113

<sup>5</sup> Md. Ann. Code Criminal Art., Section 10-117

<sup>6</sup> Md. Ann. Code Art. 2B, Section 19-204

<sup>7</sup> Md. Ann. Code Art. 2B, Sections 19-202 and 19-204

<sup>8</sup> Md. Ann. Code Transportation Art., Section 21-902

<sup>9</sup> Md. Ann. Code Transportation Art., Sections 16-113(b)

<sup>10</sup> Md. Ann. Code Courts and Judicial Proceedings Art., Section 10-307(g)

<sup>11</sup> Md. Ann. Code Transportation Art., Section 11-174.1

<sup>12</sup> Md. Ann. Code Transportation Art., Sections 21-902(c)(d)

## VII. HEALTH RISKS

Substance abuse, that is abuse of alcohol and drugs, is now recognized as the number one public health problem in the United States. Approximately 30% of all admissions to general hospitals and 50% to psychiatric hospitals have detectable substance abuse. Substance abuse accounts for approximately 150,000 deaths annually. This includes deaths from stroke, diseases of the heart and liver, and all alcohol and drug related suicides, homicides, and accidents. Early detection can minimize or prevent the devastating consequences of substance abuse.

## VIII. DRUG AND ALCOHOL PROGRAMS AVAILABLE ON CAMPUS

### **The Faculty/Staff Assistance Program (FSAP)**

This FSAP is a free and confidential assessment, referral, and short-term counseling service available to all campus employees. Alcohol and drug problems represent 30-50% of the employees utilizing this service. Other problem areas addressed include: family, marital, mental health, financial, legal, job, and many others. A professional assessment is conducted and referrals will be made to reputable community resources that are financially and geographically feasible, and that will not interfere with the employee's work schedule. In appropriate situations, short-term counseling is provided instead of a referral. Campus employees who are concerned about a family member, friends, or colleague with a possible substance abuse problem are also encouraged to contact this program. Appointments can be made by call 314-8170.

### **Alcohol/DWI Programs**

The Department of Public Safety, in cooperation with other campus offices, provides educational programs to the University community on the effects of alcohol on the body and the consequences of Driving Under the Influence ("DUI") and Driving While Impaired ("DWI"). For specific information on presentations available, contact the Department of Public Safety at 405-3555. These presentations are available to any group or organization.

### **Counseling Center**

The Counseling Services Division of the Counseling Center offers up to three interviews of initial consultation with faculty and staff. Referral resources in the community are discussed when further counseling is appropriate. For appointments call 314-7651.

### **Responsible Administrative Office**

The Department of University Human Resources shall be responsible for overseeing all actions and programs relating to this policy. The Director of University Human Resources shall conduct a biennial review of the policy and its implementation to determine its effectiveness, make necessary changes and ensure that disciplinary sanctions are consistently enforced.