



UNIVERSITY OF NORTH DAKOTA SUBSTANCE ABUSE POLICY FOR FACULTY AND STAFF



PURPOSE

The University of North Dakota recognizes that the use of illegal drugs, and abuse of alcohol and prescription drugs is a serious problem within our society. In response to this concern, the University is committed to the following goals: (1) to establish and enforce clear campus policies regarding the use of alcohol and illegal drugs; (2) to educate members of the campus community for the purpose of preventing alcohol abuse and illegal drug use; (3) to create a campus environment that promotes the individual's responsibility to him/herself and to the campus community; and (4) to provide resources through counseling and referral services for students, faculty, and staff who experience alcohol and other drug abuse problems.

POLICY

University of North Dakota policy prohibits the abuse of alcohol or use of illegal drugs, as well as reporting for work or engaging in work or other University-related activities under the influence of alcohol or illegal drugs. Behaviors which suggest alcohol/drug abuse include (but are not limited to) the following:

1. Repeated accidents (on or off campus)
2. Repeated illness absences
3. Chronic lateness or early departures
4. Significantly diminished task performance (with no other explanation)
5. Odor of alcohol, slurred speech, unsteady gait, disorientation, paranoia, hallucinations, and other physical signs of impaired function, not caused by a known medical condition.

A faculty or staff member who suspects that a colleague or co-worker is under the influence of alcohol or illegal drugs should contact his/her department chair or supervisor immediately. A faculty or staff member who suspects a supervisor or department head is under the influence of alcohol or other illegal drugs should contact the next level of supervision or administration.

If a department chair, supervisor, or administrator has been contacted or suspects that an individual is under the influence of drugs or alcohol, he/she should contact the Employee Assistance Program, Human Resources, Affirmative Action, or the next level of administration for assistance. The individual will be given an opportunity to discuss the situation. A person suspected or found to be under the influence of alcohol or other drugs and/or who may be incapable of performing his/her job will be placed on leave. University leave policies will apply. The individual will be taken home or be sent home via public transportation or a relative or friend will be contacted to take the employee home. Anyone who insists on driving while suspected of being under the influence of alcohol or other drugs will be reported to authorities.

If a person admits to being under the influence of alcohol or illegal drugs, drug or alcohol testing of the individual may not be necessary. In these cases, a referral will be made for evaluation to the UND Employee Assistance Program.

If it is determined that testing is necessary because of a critical incident in the workplace or because of safety concerns for the individual, colleagues, or co-workers, blood and/or urine testing procedures will be used. The University of North Dakota will pay the cost of all required drug or alcohol testing. Drug or alcohol testing may be conducted at the Student Health Service or other appropriate health agency with test samples sent to a certified laboratory for analysis. Random drug or alcohol testing is not explicit or implicit in this policy. An individual suspected or found to be under the influence of alcohol and/or illegal drugs will be referred for evaluation to the Employee Assistance Program, and, if indicated, will be expected to participate in an appropriate treatment program for rehabilitation. If an individual refuses evaluation refuses to participate in the appropriate treatment program, if it is indicated, or does not successfully complete the program, he/she will be subject to disciplinary actions up to and including dismissal. If the individual is able to continue working while involved in the treatment program, his/her supervisor, department head, or

department chair will determine if the individual is capable of performing his/her regular job duties. If it is decided that the person should not work at his/her regular job, a temporary alternate job in the department or unit may be offered if one is available for which the person is qualified. If a position is not available, he/she will be placed on leave of absence with or without pay based on the appropriate leave policy.

CONVICTION OF CRIMINAL DRUG STATUTE VIOLATION

Any faculty or staff member convicted of violating a criminal drug statute in this workplace must inform his/her department chair or the supervisor of such conviction (including pleas of guilty and nolo contendere) within five working days of the conviction occurring. Failure to so inform the supervisor or department head will subject the individual to disciplinary action up to and including dismissal for the first offense. Under the Drug-Free Workplace Act of 1988 involving employees on federal grants or contracts, the University of North Dakota will notify the appropriate federal contracting officer within 10 days of receiving such notice from a faculty or staff member on a federal grant or contract or otherwise receiving notice of such a conviction.

Supervisors or department heads who are notified of a criminal drug statute conviction by an employee shall immediately inform Human Resources for classified staff, Academic Affairs for academic staff and faculty, and the Dean's Office, School of Medicine and Health Sciences, for Medical School academic staff and faculty. Notification to a federal contacting agency will be through the UND Grants Administration Office.

The University of North Dakota reserves the right to offer individuals convicted of violating a criminal drug statute in the workplace participation in an approved rehabilitation or drug assistance program as an alternative to discipline. If such a program is offered, and accepted by the faculty or staff member, then he/she must satisfactorily participate in the program as a condition of continued employment.

Appropriateness of a rehabilitation program to a specific conviction must be determined on a case-by-case basis.

AFTERCARE

Upon completion of the initial alcohol/drug treatment program, the individual may be monitored for up to two years by the supervisor/department head as determined by the treatment program. As a part of the aftercare program, monthly reports from the licensed drug/alcohol treatment program will be submitted to the supervisor or department chair on the individual's progress while he/she is in the program. Reports of relapses and/or missed aftercare meetings also will be reported to the supervisor or department chair by the licensed alcohol/drug treatment program. Non-compliance in the above-stated elements of the aftercare program will result in disciplinary actions up to and including dismissal.

PRESCRIPTION DRUGS

Although prescription drugs and over the counter drugs are legal, their use may be unsafe under certain circumstances. A person who is using a drug which impairs mental or physical functioning should inform his/her supervisor or department chair. The supervisor will be responsible for evaluating the individual's ability to work. If necessary, the faculty or staff member may be requested to obtain a statement from the prescribing physician, authorizing the individual to work. If it is determined that it would be unsafe for an individual to work in the regular work setting, an alternative, temporary job may be offered if one is available for which the person qualifies. If no suitable job is available, the impaired person will be put on leave status.

SALE, TRANSFER, POSSESSION OF ILLEGAL DRUGS

Possession of illegal drugs (except possession of current prescription drugs) is prohibited and anyone in violation shall be subject to discipline. Any person, who sells, manufactures, distributes any illegal drugs on

University property, will be reported to the authorities and will be subject to dismissal proceedings.

LEGAL SANCTIONS

Under the North Dakota Century Code, persons in the workplace suspected of violating either alcohol or drug statutes may be referred to criminal authorities for prosecution. Conviction of either state or federal alcohol or drug statutes will subject an individual (faculty or staff) to disciplinary action including, but not limited to, a required rehabilitation program, suspension, demotion, or dismissal.

The classification of offenses and the sanctions for violating specific alcohol or drug statutes are as follows: Section 12.1-32-01. Classification of Offenses-Penalties. Offenses are divided in to seven classes which are denominated and subject to maximum penalties, as follows:

1. Class AA felony: up to life imprisonment.
2. Class A felony: up to 20 years in prison, \$10,000 fine, or both.
3. Class B felony: up to 10 years in prison, \$10,000 fine, or both.
4. Class C felony: up to 5 years in prison, \$5,000 fine, or both.
5. Class A misdemeanor: up to one year in prison, \$2,000 fine, or both.
6. Class B misdemeanor: up to 30 days in prison, \$1,000 fine, or both.
7. Infraction: up to a \$500 fine.

Alcohol

Section 5-01-09. Alcoholic Beverages: Delivery to certain persons unlawful. Penalty for knowingly delivering alcoholic beverages to a person under twenty-one years of age (except as allowed under section 5-02-06), an obviously intoxicated person, a habitual drunkard, or an incompetent is a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, or 5-01-08.2. Section 39-08-01. Persons under the influence of intoxicating liquor or other drugs or substances are not to operate a vehicle. Conviction for a first or second offense is a Class B misdemeanor; subsequent offenses could possibly be classified Class A misdemeanors or Class C felonies. Section 39-08-18. Open bottle law conviction carries a \$50 fine. Section 48-05-06. Alcoholic beverages and drugs in charitable institutions prohibited. Penalty for taking, sending, or introducing any alcoholic beverage or controlled substance into any building or upon the premises of any institution, except as stated in NDCC 48-05-06, is guilty of a class A misdemeanor.

Drugs

Chapter 19-03.1. Uniform Controlled Substance Act. Conviction under the Uniform Controlled Substance Act carries penalties that range from 1 year imprisonment, \$2,000 fine, or both to 28 years imprisonment, \$10,000 fine, or both.

Chapter 19-03.2. Imitation Controlled Substances. Penalties range from a class B misdemeanor for a person to use, or to possess with intent to use, an imitation controlled substance to a class C felony for the purpose of manufacturing, distributing, or possession with the intent to distribute, an imitation controlled substance.

Section 19-04-08. Distribution of Anabolic Steroids Prohibited. Penalty for distributing or possessing with the intent to distribute an anabolic steroid for use in humans other than the treatment of disease under the prescription of a physician is a class B felony.

12.1-31.1-03. The offense level for unlawful possession of drug paraphernalia ranges from a Class A misdemeanor to a Class C felony.

12.1-31.1-04. The offense level for unlawful manufacture or delivery of drug paraphernalia ranges from a

Class A misdemeanor to a Class C felony.

12.1-31.1-05. Unlawful delivery of drug paraphernalia to a minor is a class C felony.

12.1-31.6-06. Unlawful advertisement of drug paraphernalia is a Class A misdemeanor.

This is not a list of all possible alcohol or drug offenses. The violation of any offense, listed or not, may lead to disciplinary action by the University, as well as criminal prosecution. Disciplinary and appeal procedures for faculty are found in the Faculty Handbook and for staff in the Staff Personnel Policy Manual.

Federal statutes are either attached or available as printed in the August 16, 1990, Federal Register as part of the final regulations for the Drug-Free Schools and Campuses Act 1990.

SOURCES OF EDUCATION AND COUNSELING

UND offers an Employee Assistance Program (EAP), which is the agency for referrals or services, for faculty and staff employees. UND has contracted with St. Alexius Medical Center to provide this program. The phone number is 1-800-327-7195. For appointments, call between 8 a.m. to 4:30 p.m. A counselor is available 24 hours a day, seven days a week, to address any emergency or crisis situations. The Employee Assistance Program offers educational programs for persons seeking assistance for drug and alcohol evaluation, intervention, treatment, and aftercare. Other agencies or licensed addiction counselors are listed in the yellow pages of the telephone book under "Alcoholism Treatment" and "Drug Abuse Information and Treatment."

USES AND EFFECTS OF CONTROLLED SUBSTANCES

For drug descriptions, see the Department of Justice's website at: www.usdoj.gov/dea/concern/concern.htm

FEDERAL TRAFFICKING PENALTIES

Please see the Department of Justice's website at: www.usdoj.gov/dea/agency/penalties.htm

REPORTING REQUIREMENTS AND RECORDS RETENTION

A department chair or supervisor who has disciplined a faculty or staff member for alcohol or drug-related workplace problems or who has knowledge of an alcohol or drug-related conviction, shall notify the appropriate vice president in whose area the faculty or staff member is employed. The following information will be retained: faculty or staff member's name, department, date and type of offense, date and type of action taken, and any follow-up or aftercare required. Disciplinary reports on staff shall be submitted to Human Resources, which shall be the official repository of these data. Disciplinary reports on faculty shall be placed in their official personnel file with copies to their dean and vice president. Referral data for evaluation, treatment, or aftercare that are non-disciplinary or contain medical information shall be retained by EAP. The University will undertake, at minimum, a biennial review of the program starting in 1991 (1) to determine the effectiveness of and changes to the program and (2) to ensure that disciplinary sanctions are consistently enforced.

CONFIDENTIALITY OF RECORDS

North Dakota Century Code 44-04-18.1, "Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and may not be released without the written consent of the employee."

DRUG-FREE WORKPLACE POLICY STATEMENT

The University of North Dakota prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace and in any facility under the University's control. Employees who violate this policy shall be subject to disciplinary action such as reprimand, suspension, or dismissal. Any employee who is convicted of unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or other criminal drug statute is required to notify his/her department head no later than five working days after such conviction. Failure to notify the appropriate University official(s) of a drug-related conviction shall be grounds for disciplinary action up to and including dismissal. UND shall make all good faith efforts to have and to maintain a drug-free workplace.

Charles E. Kupchella, President

Approved [insert date]

Drug-Free Workplace Act of 1988

NORTH DAKOTA BOARD OF HIGHER EDUCATION POLICY

In accordance with the policy of the North Dakota Board of Higher Education, university employees are required to document that they have read the Substance Abuse Policy statement. This document is distributed and maintained by Human Resources. Additional policies, procedures, and guidelines are found in the Faculty Handbook, Code of Student Life, and www.und.edu. (North Dakota State Board of Higher Education Policy, Section 615 Drug Free Workplace)

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ⁱ Substance Abuse Policy, Affirmative Action Office, Revised 8/06