



Title: #VI-2. WVUP Drug-Free Policy for the Workplace and School

Date: July 7, 2006

I. West Virginia University at Parkersburg Drug-Free Workplace Act of 1988

Purpose: To comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690 Title V, Subtitle D, 41 U.S.C. 701 et. sep.).

Coverage: All West Virginia University at Parkersburg employees, including faculty, classified and non-classified staff, administrators, and student employees.

Prohibitions: (a.) The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace.
(b.) Reporting for work under the influence of a controlled substance is prohibited.

A. Notice to Employees

As a condition of University employment, every employee shall 1.) abide by the terms of this policy and 2.) notify his/her supervisor and the Department of Human Resources of any conviction on drug or alcohol related charges resulting from any activity occurring in the workplace or otherwise on University premises no later than five (5) days after such conviction.

B. Disciplinary Sanctions

Any employee found in violation of this provision shall be subject to disciplinary action, including dismissal, and may be required to participate in a drug abuse assistance or drug rehabilitation program.

C. Awareness

West Virginia University at Parkersburg has established awareness programs for students, faculty, and staff through the Health and Wellness Center, the Employee Assistance Resource program, and the Student Wellness Association. Educational programs have been established by the Health and Wellness Center and the Student Wellness Association for the purpose of educating employees and students regarding the nature and consequences of drug and alcohol dependency and/or abuse. These programs also address the dangers of alcohol and drug abuse in the workplace, as well as provide appropriate information, education, consultation, and referral.

The Health and Wellness Center, the Student Wellness Association and the Employee Assistance Resource program may be reached at 424-8205.

Implementation Procedure – Effective March 17, 1989, the University will:

- Notify employees of the policy regarding drug-free workplace
- Provide a copy of the policy and procedures as part of the award package on all grants received by the University
- Provide a copy of the policy to each new employee at the time of initial employment processing
- Notify the contracting agency within ten (10) days after receiving notice from an employee or otherwise receiving notice of a drug related conviction
- Impose sanctions as stated earlier within thirty (30) days of receiving notice of a criminal drug statute conviction in the workplace.

II. General Requirements of the Drug-Free Schools And Communities Act: Amendments of 1989

Purpose: To comply with the Drug-Free Schools and Communities Act Amendments of 1989 (Pub.L.No.101-226, 103 Stat. 1928).

Coverage: All West Virginia University at Parkersburg employees, including faculty, classified and non-classified staff, administrators, and students.

Prohibitions: Employees and students in violation of West Virginia University at Parkersburg's standards concerning drugs and alcohol.

The Drug-Free Schools and Communities Act Amendments of 1989 requires an institution of higher education, as a condition of receiving funds or any other form of financial assistance under any federal program, to certify that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees.

As part of its drug prevention program for students and employees, West Virginia University annually distributes in writing to each student and employee the following information:

- Standards of conduct that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees on its property or as a part of any of its activities.
- A description of applicable local, state, and federal legal sanctions pertaining to the unlawful possession, use, or distribution of illicit drugs and the abuse of alcohol
- A description of health risks associated with the use of illicit drugs and the abuse of alcohol
- A description of available drug and alcohol counseling, treatment, rehabilitation, and re-entry programs
- A clear statement of the disciplinary sanctions that the University will impose upon students and employees who violate the standards of conduct.

The University will conduct a biennial review of its drug prevention program to determine its effectiveness, implement needed changes, and ensure that disciplinary sanctions are consistently enforced.

A. Standards of Conduct

The unlawful possession, use, or distribution of illicit drugs and alcohol by students or employees on University property or as part of any other University regulated activities is prohibited.

B. Disciplinary Sanctions

The University will impose disciplinary sanctions on students and employees (faculty, classified and non-classified staff) who violate the above standards of conduct. Students should recognize the fact that for violation of these standards they will be subject to disciplinary sanctions up to and including suspension or expulsion from the University and referral for prosecution. Employees should be aware of the fact that violation of these standards of conduct will subject them to sanctions up to and including immediate dismissal and referral for prosecution. You should consult your student handbook, classified employee's handbook, or faculty handbook for review of the specific sanctions which may apply.

III. Drug-Induced Rape Prevention and Punishment Act of 1996

Purpose: To comply with the Drug-Induced Rape Prevention and Punishment Act of 1996 (Pub.L. 104-305, 110 Stat.3807, 21U.S.C. 801 note, 21U.S.C. 841).

Coverage: All West Virginia University at Parkersburg employees, including faculty, classified and non-classified staff, administrators, and students.

Prohibitions: It is unlawful to distribute a controlled substance to an individual resulting in their "inability to acknowledge" and/or consent to drug facilitated crimes of violence, including sexual assault. "Definition of the term 'inability to acknowledge' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual."

A. Disciplinary Sanctions

Any employee or student found in violation of this provision shall be subject to disciplinary action, including dismissal.

IV. West Virginia University at Parkersburg Controlled Substance and Alcohol Use Testing

Purpose: To comply with the Omnibus Transportation Employees Testing Act, 1991 (49 CFR 653 and 654); Federal Highway Administration Federal Motor Carrier Safety Regulation (49 CFR 382); Federal Railroad Administration

Act (49 CFR 219); Drug-Free Workplace Act, 1988 (49 CFR 29); Drug-Free Schools and Communities Act, 1986 (20 U.S.C. 3181-3196); Drug-Free Schools and Communities Act Amendments, 1989.

Coverage: Drug and alcohol testing has been federally required for all professional drivers and safety-sensitive employees including interim, temporary, casual, classified, non-classified, faculty, students, and volunteer workers.

Prohibitions: The illegal use of controlled substances and the misuse of alcohol by professional drivers of large trucks, passenger buses, and vehicles transporting hazardous materials; or, are employees in other safety-sensitive roles.

A. Disciplinary Sanctions

The University will impose testing and disciplinary sanctions on affected employees who violate these standards whose duties require, or individuals who apply for positions which require the possession of a valid Commercial Drivers License (CDL); those responsible for the operation/driving, maintenance, and/or controlling dispatch or movement of regulated vehicles; and/or individuals whose duties require the possession of a firearm for security purposes.

V. Health Risks Associated with the Use and Abuse of Alcohol and Illicit Drugs

Substance abuse and drug dependency are problems of staggering proportions in our society today. They are the leading causes of preventable illness, disability, and death in the United States. Alcohol/chemical dependency is a disease that affects not only individuals, but every component of the family system, workplace, and the community. The impact of alcoholism/chemical dependency is felt directly by 1 in every 4 Americans.¹ An estimate 6.6 million children under age 18 live in households with at least one alcoholic parent.² Chemical abuse not only includes alcohol and illegal drugs, but also prescription drugs such as tranquilizers, pain killers, sleeping pills, etc.

A. Alcohol/Drug Abuse

Alcoholism and other drug dependencies are diseases with identifiable symptoms. These symptoms include changes in alcohol/drug tolerance, blackouts (permanent, chemically induced memory loss), denial (refusal to admit that chemical use is a problem), mood swings, behavior changes, and loss of control (inability to stop and/or limit chemical consumption). The disease injures the person economically, socially, physically, psychologically, and spiritually; relationships break down, work performance is impaired, depression often occurs and behavior often goes against values.

Persons who suffer from chemical dependency are victims of a progressive, fatal disease. Alcoholism/addiction affects people of all ages, economic levels, and races. Ninety-seven percent of chemically-dependent people have responsible jobs, a home, and a family.³

¹ National Institute on Drug Abuse

² National Institute on Alcohol Abuse and Alcoholism

³ National Institute on Drug Abuse

Alcoholism is a disorder that has profound psychological and biological patterns: 1.) regular daily intoxication, 2.) drinking large amounts of alcohol at specific times, and 3.) periods of sobriety interspersed with periods of heavy daily drinking. The course of the disorder is usually progressive and physical dependence can develop. If this happens, serious symptoms, sometimes life threatening, can develop when alcohol is withdrawn. Short term effects of alcohol use can include depression, gastritis, liver disease and automobile accidents, and domestic violence. Chronic alcohol abuse can produce irreversible changes, including dementia, sexual impotence, cirrhosis of the liver, and heart disease. Death can occur either as a complication of one of these chronic problems, or acutely, secondary to alcohol intoxication by poisoning or aspiration of vomitus or as the result of an automobile accident while driving intoxicated.

B. Impact of Families/Friends

Families are gravely affected by a chemical abusing member. Some of the effects on the family include: feelings of insecurity, guilt, fear, isolation, anger, and resentment. As the chemically dependent person's disease progresses, the effects on the family worsen. As a very direct, physiological consequence, the infants of alcohol and cocaine abusing mothers often have low birth weight and may suffer from malformations and a variety of developmental problems. Children are often the most vulnerable to the effects of chemical dependency. Growing up in families where their developmental needs do not get met, children may face a variety of problems; low self-esteem, inability to trust others, teenage pregnancy, and high risks for chemical use/abuse/dependency.

The lifestyle of the abuser often affects the economic well-being of their families due to their inability to hold down a job. In some cases, the abuser will steal from relatives, which reduces the family's financial means and stability. In many cases, substance abuse leads to violence at home.

There is an obvious emotional toll of substance abuse on the functioning of individual members and the family as a whole. Family members may actively deny the problem, may become symptomatic in an effort to deflect attention from the substance abusing member, or may assume the abuser's responsibilities at home and even at work.

Chemical dependency is treatable. With an understanding of the disease and its impact on lives, family members and friends can take steps to help reduce enabling behaviors. Very often, the family's intervention with the user and his or her problem is an essential step which encourages the abusing member to seek treatment. Support groups for family members, such as Al-Anon, as well as family therapy can provide needed assistance to families as they grapple with the destructive effects of the user's addiction.

C. Campus Support

WVU at Parkersburg

1. Health and Wellness Center (304) 424-8205
2. Student Wellness Association (304) 424-8205
3. Employee Assistance Resource Program (304) 424-8205
4. Counseling and Wellness Center (faculty & staff) (304) 422-7300

West Virginia University

1. Faculty and Staff Assistance Program (FSAP) (304) 293-5590

D. Disclaimer

This list of treatment facilities and services is not intended to be exhaustive; it is merely a helpful list of some contacts in areas convenient to West Virginia University at Parkersburg campuses. West Virginia University at Parkersburg cannot accept liability for any services, treatment, or counseling provided by non-affiliated agencies or their employees for any acts of misfeasance, nonfeasance, or malfeasance by same. The individual and his or her family should conduct reviews of these facilities before accepting their services.

VI. State and Federal Legal Sanctions Concerning Drugs and Alcohol

Federal Drug Trafficking Laws

Federal law penalizes the manufacture, distribution, possession with intent to manufacture drugs ("controlled substances"). 21 U.S.C. § 841(a). Listed below are the sentencing guidelines for violation of the Controlled Substances Act.⁴

A. Subsection 841(a)(1)(A) - Trafficking Offenses

| <u>Drug</u> | <u>Quantity</u> |
|--|--|
| HEROIN | 1 kilogram or more of a mixture or substance containing a detectable amount |
| COCA LEAVES | 5 kilograms or more of a mixture or substance containing a detectable amount |
| COCAINE | 5 kilograms or more of a mixture or substance containing a detectable amount |
| ECGONINE | 5 kilograms or more of a mixture or substance containing a detectable amount |
| Any compound, mixture, or preparation which contains any quantity of COCOA LEAVES or COCAINE or ECGONINE | 5 kilograms or more of a mixture or substance containing a detectable amount |
| Any compound, mixture, or preparation which contains any quantity of COCOA LEAVES or COCAINE or ECGONINE which contains cocaine base | 50 grams |
| PCP | 100 grams or more – or – 1 kilogram or |

⁴ 21 U.S.C. §841(a) as amended, November 2, 2002.

| | |
|------------------------|--|
| | more of a mixture or substance containing a detectable amount |
| LSD | 10 grams or more of a mixture or substance containing a detectable amount |
| N-phenyl-N-propanamide | 400 grams or more of a mixture or substance containing a detectable amount – or – 100 grams or more of mixture or substance containing a detectable amount of any analogue thereof |
| MARIJUANA | 1000 kilograms or more of a mixture or substance containing detectable amount – or – 1,000 or more marijuana plants regardless of weight |
| METHAMPHETAMINE | 50 grams – or – 500 grams or more of a mixture or substance containing a detectable amount |

B. Subsection 841(a)(1)(A) Penalties

1. First Offense

Term of **imprisonment** which may not be less than **10 years** and not more than life imprisonment.

*If death or serious bodily injury results from the use of such substance:

-Term of imprisonment which may not be less than 20 years or more than life.

A **fine** not to exceed **\$4,000,000**.

2. Violation after a Prior Conviction

Term of **imprisonment** which may not be less than **20 years** and not more than life imprisonment.

* If death or serious bodily injury results from the use of such substance:

-Life imprisonment.

A **fine** not to exceed **\$8,000,000**.

3. Aggravating Circumstances

(a) Distribution to Persons Under Age 21

First Offense:

-Two times the maximum punishment authorized by § 841(b)

-Mandatory Minimum of 1 year imprisonment (unless greater punishment authorized)

Second Offense:

-Three times the maximum punishment authorized by § 841(b)

(b) Distribution of Manufacturing in or Near Schools and Colleges

First Offense

- Mandatory Minimum of 1 year imprisonment (unless greater punishment authorized).

-Twice the maximum fine authorized by § 841(b)

Second Offense

- Mandatory Minimum of 3 years imprisonment and not more than life imprisonment
- Three times the maximum punishment authorized by § 841(b)

(c) Employment or Use of Person Under 18 Years of Age in Drug Operations

First Offense

- Twice the maximum punishment otherwise authorized

Second Offense

- Three times the maximum punishment authorized.

C. Subsection 841(a)(1)(B) - Trafficking Offenses

| <u>Drug</u> | <u>Quantity</u> |
|--|---|
| HEROIN | 100 grams or more of a mixture or substance containing a detectable amount |
| COCA LEAVES | 500 grams or more of a mixture or substance containing a detectable amount |
| COCAINE | 500 grams or more of a mixture or substance containing a detectable amount |
| ECGONINE | 500 grams or more of a mixture or substance containing a detectable amount |
| Any compound, mixture, or preparation which contains any quantity of COCOA LEAVES or COCAINE or ECGONINE | 500 grams or more of a mixture or substance containing a detectable amount |
| Any compound, mixture, or preparation which contains any quantity of COCOA LEAVES or COCAINE or ECGONINE which contains cocaine base | 5 grams |
| PCP | 10 grams or more – or – 100 grams or more of a mixture or substance containing a detectable amount |
| LSD | 1 grams or more of a mixture or substance containing a detectable amount |
| N-phenyl-N-propanamide | 40 grams or more of a mixture or substance containing a detectable amount – or – 10 grams or more of mixture or |

substance containing a detectable amount of any analogue thereof

MARIJUANA

100 kilograms or more of a mixture or substance containing detectable amount – or – 100 or more marijuana plants regardless of weight

METHAMPHETAMINE

5 grams – or – 50 grams or more of a mixture or substance containing a detectable amount

D. Subsection 841(a)(1)(B) -Trafficking Penalties

1. First Offense

Term of **imprisonment** which may not be less than **5 years** and not more than **40 years**.

*If death or serious bodily injury results from the use of such substance:

-Term of imprisonment which may not be less than 20 years or more than life.

A **fine** not to exceed **\$2,000,000**.

2. Violation after a Prior Conviction

Term of **imprisonment** which may not be less than **10 years** and not more than life imprisonment.

* If death or serious bodily injury results from the use of such substance:

-Life imprisonment

A **fine** not to exceed **\$4,000,000**.

3. Aggravating Circumstances

(a) Distribution to Persons Under Age 21

First Offense:

-Two times the maximum punishment authorized by § 841(b)

-Mandatory Minimum of 1 year imprisonment (unless greater punishment authorized)

Second Offense:

-Three times the maximum punishment authorized by § 841(b)

(b) Distribution of Manufacturing in or Near Schools and Colleges

First Offense

- Mandatory Minimum of 1 year imprisonment (unless greater punishment authorized).

-Twice the maximum fine authorized by § 841(b)

Second Offense

-Mandatory Minimum of 3 years imprisonment and not more than life imprisonment

- Three times the maximum punishment authorized by § 841(b)

(c) Employment or Use of Person Under 18 Years of Age in Drug Operations

First Offense

-Twice the maximum punishment otherwise authorized

Second Offense

-Three times the maximum punishment authorized.

Federal Possession Laws

Federal law penalizes the simple possession of controlled substances. 21 U.S.C. 844(a) (2005). Listed below are the sentencing guidelines for violation of the Controlled Substances Act.⁵

A. Subsection 844(a) Simple Possession

| <u>Offense</u> | <u>Penalty</u> |
|--|--|
| Possession of Illegal Controlled Substance | Term of imprisonment of not more than one year, a minimum fine of \$1,000, or both. |
| Possession with Prior Conviction | Term of imprisonment for not less than 15 days but no more than 2 years and a minimum fine of \$2,500. |
| Possession with Two or More Prior Convictions | Term of imprisonment for not less than 90 days but not more than 3 years and a minimum fine of \$5,000. |
| Possession of a Mixture or Substance Which Contains Cocaine Base (Exceeds 5 grams) | Term of imprisonment for not less than 5 years and not more than 20 years and a minimum fine of \$1,000. |
| Possession of a Mixture or Substance which contains Cocaine Base (Exceeds 3 grams) <i>after prior conviction of the same.</i> | Term of imprisonment for not less than 5 years and not more than 20 years and a minimum fine of \$1,000. |
| Possession of a Mixture or Substance Which Contains Cocaine Base (Exceeds 1 grams) <i>after two or more prior convictions of the same.</i> | Term of imprisonment for not less than 5 years and not more than 20 years and a minimum fine of \$1,000. |
| Possession of Flunitrazepam (“Rohypnol” or “Roofies” – date-rape drug) | Term of imprisonment for not more than 3 years and a fine as provided above for simple possession. |

State of West Virginia Laws Regarding the Unlawful Possession, Use, or Distribution of Illicit Drugs and Alcohol

A. Alcohol Violations

| <u>Violation</u> | | <u>Penalty</u> |
|--|-------------|---|
| Misrepresentation of age for the purpose of purchasing or drinking | MISDEMEANOR | Imprisonment in county jail for up to 72 hours and fine |

⁵ 21 U.S.C. § 844 as amended, October 13, 1996.

beer or liquor or gaining admittance to any establishment from which he or she would otherwise be barred by age.

up to \$50.

Furnishing alcohol to a minor under 21 years of age by person no related by blood or marriage.

MISDEMEANOR

Imprisonment in a county jail for a period not to exceed ten days.
A fine in an amount not to exceed one hundred dollars.

Alcohol in Public Places:

1. Public intoxication
2. Drinking alcoholic liquor in a public place
3. Tendering a drink of alcoholic liquor to another person in a public place
4. Possessing alcoholic liquor in an amount in excess of one gallon in a container not having a commissioner's stamp or seal

ALL
MISDEMEANORS

First Offense: A fine of not less than \$5 nor more than \$100.

Second Offense: A fine of not less than \$5 nor more than 60 days in the county or regional jail or completion of not less than 5 hours of alcoholism counseling at the nearest community mental health – mental retardation center

B. Controlled Substances Violations

Except as authorized by law, it is unlawful for any person to manufacture, deliver, or possess with intent to deliver controlled substances. (See below for references to controlled substances).

West Virginia Code Sections [60A-2-204](#), [206](#), [208](#), [210](#), and [212](#) provides Schedules I, II, III, IV, and V of Controlled Substances as referred to hereafter. In reviewing offenses involving these Schedules of Controlled Substances you may click on the links to the sections of State Code referenced in this document when reading an electronic version, or you may review copies of the Schedules of Controlled Substances at the following locations:

- | | |
|----------------------------|----------------------------|
| 1. Student Health Center | 4. Jackson Co. Center |
| 2. Student Services Office | 5. Library |
| 3. Human Resources | 6. Office of the President |

It is an unlawful offense for any person to deliver, manufacture, create, or possess with intent to manufacture or deliver any controlled substance as defined in the Schedules of Controlled Substances and the penalties for various offenses are as follows.

| <u>Violation</u> | | <u>Penalty</u> |
|---|-------------|--|
| 1. Offense involving Schedule I or Schedule II controlled substance which is a narcotic. | FELONY | Imprisonment in the state correctional facility for 1-15 years and a fine of \$25,000 |
| 2. Offense involving any other controlled substance which is not a narcotic above in Schedules I, II, III. | FELONY | Imprisonment in the state correctional facility for 1-5 years and a fine of \$15,000 |
| 3. Offense involving a Schedule IV substance. | FELONY | Imprisonment in the penitentiary for 1-3 years and a fine of \$10,000 |
| 4. Offense involving a Schedule V substance. | MIDEMEANOR | Confined in a county jail not less than 90 days, not more than 6 months and a fine of \$1,000 |
| 5. Offense involving possession of a controlled substance without a valid prescription. | MISDEMEANOR | Confined in a county jail not less than 90 days, not more than 6 months and a fine of \$1,000 |
| 6. Offense involving an imitation controlled substance. | MISDEMEANOR | Imprisonment in the county jail for six months to a year and a fine of \$5,000 |
| 7. Where a person 18 years or older commits any offense outlined in 1 through 4 above by distributing a narcotic to a person under 18 years of age and at least three years his junior. | | Fine same as in 1 through 4, but may be subject to a term of imprisonment up to twice that authorized by 1 through 4 above. |
| 8. Any person convicted of a second or subsequent offense, except for those in 7 above. | | May be imprisoned for a term up to twice that otherwise authorized and fined an amount up to twice that other otherwise or both. |

C. Vehicular Offenses

1. Any person driving a vehicle in West Virginia while under the influence of alcohol, a controlled substance, any other drug, or a combination of the above.

| <u>Offense</u> | | <u>Penalty</u> |
|---|-------------|---|
| (A) Commits an act forbidden by law which results in the death of another when the influence of alcohol, controlled substances or drugs is shown to be a contributing cause to the death. | FELONY | Imprisonment in the penitentiary for 1 to 10 years and a fine of \$3,000 |
| (B) Commits an act forbidden by law which results in the death of another. | MISDEMEANOR | Imprisonment in the county jail for up to one year and a fine of up to \$1,000. |
| (C) Commits an act forbidden by law which results in bodily injury to another. | MISDEMEANOR | Imprisonment in the county jail for up to one year and a fine of \$1,000 |
| (D) Driving under the influence as in 1 above with no deaths or injury resulting. | MISDEMEANOR | Imprisonment in the county jail for up to 6 months and a fine of up to \$500 |

2. Anyone younger than 21 years of age found driving with a blood alcohol level greater than 0.02% by weight.

| | | |
|------------------------------------|-------------|---|
| (A) First offense | MISDEMEANOR | Fined up to \$100 |
| (B) Second and subsequent offenses | MISDEMEANOR | Imprisoned in the county or regional jail for twenty-four hours and shall be fined up to \$500. |