



Drug-Free Workplace

Policy Statement

The University of Vermont is committed to maintaining a drug-free workplace and workforce in conformity with federal laws, as set forth in the Drug-Free Workplace Act of 1990. It is therefore the policy of the University to prohibit the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances by UVM employees both on and off campus.

Violations of this policy may subject employees to disciplinary action, up to and including termination of employment and referral for prosecution. UVM will also provide information and referral to, and may also require employees to participate in an appropriate drug assistance or rehabilitation program.

Reason for the Policy

The University of Vermont is committed to providing a workplace free from the effects of the illegal use of drugs and abuse of alcohol and seeks to make its employees aware of the dangers of drug and alcohol abuse as well as the availability of drug counseling, rehabilitation and employee assistance. The University of Vermont recognizes that the illegal use of drugs and abuse of alcohol by members of the University community is likely to have a detrimental impact on the ability of the University to accomplish its mission. The University seeks to provide an environment free from the adverse effects of alcohol and other drug abuse. All members of the University community are responsible for being fully aware of the requirements of University policy as well as local, state, and federal laws regarding alcohol and other drugs. The University will hold employees responsible for behavior that violates University policy and may refer incidents which could constitute a violation of law to University Police Services as well as following applicable University disciplinary procedures.

Strategic Direction

This policy supports the following goal in the University's Strategic Plan:

http://www.uvm.edu/~president/strategic_planning/Strategic%20Plan%202009-2013.pdf

- *Institutional Efficacy*: As an institution, model the highest standard of ethical conduct, public service, and strong commitment to lifelong learning.

Applicability of the Policy

This policy applies to all employees of the University of Vermont.

Policy Elaboration

1. The following actions are prohibited:
 - a. Possessing or using illegal or controlled substances, as defined by federal, state, and local statutes. (Controlled substances may be taken pursuant to a properly issued prescription, provided the controlled substance is taken as and in the amount prescribed).
 - b. Distributing, selling, or possessing with the intent to distribute illegal or controlled substances.
 - c. Possessing or using drug paraphernalia (including but not limited to pipes, bongs, etc.) except when used for legal substances and in a legally prescribed manner.
 - d. Being under the influence of illegal or controlled substances as demonstrated by actions and/or other evidence.
 - e. Growing and/or manufacturing any illegal substance.
2. Drug-Free Awareness and Employee Assistance Program
 - a. The University has long recognized that substance abuse is a serious problem and that a faculty or staff member who has a substance abuse problem may be rehabilitated. The University has established programs to assist those with substance abuse problems and encourages individuals to seek help. Individuals may contact the Employee Assistance Program at (800) 828-6025 to seek a confidential evaluation and opportunity for rehabilitation or referral for treatment for any type of drug problem. The University has established a Drug-Free Awareness and Employee Assistance Program which is administered through the Employee Assistance Program
<http://www.uvm.edu/hrs/?Page=healthy/wellness.html>
 - b. This program provides information about the dangers of drug abuse, including illegal drug use, in the workplace, supervisory training programs in the identification of illegal drug use, drug counseling for any employee, as well as

confidential referrals to rehabilitation programs approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.

3. Health Risks Associated with Alcohol Abuse and Illicit Drug Use

The improper use of controlled substances and use of illicit drugs pose significant health risks to individuals, including addiction, permanent injury and death. Among those risks are the following: impairment of reflexes making the operation of vehicles or machinery dangerous; short and long-term effects from mixing alcohol with over-the-counter or prescription medications, which may include permanent damage to organs or death; negative impacts on social and emotional well-being and on education and employment; pregnancy complications, including birth defects; long-term health problems including liver disease, heart disease, increased risk of cancer and pancreatitis. Additional information on the health risks associated with the excessive use of alcohol and use of controlled substances may be obtained through the University's Employee Assistance Program.

4. Notification of Convictions

- a. Any employee who is supported by a federal granting or contracting agency and has been convicted of a criminal drug statute violation occurring in the workplace must notify his/her immediate supervisor no later than five (5) days after the conviction.
- b. Upon notification of such a conviction, the University is required by law to notify the federal granting or contracting agency within ten (10) days of notice to the University of the conviction.

5. Sanctions

- a. Any UVM employee who violates this policy or who is convicted under a criminal drug statute for a violation occurring in the workplace may be suspended pending investigation, will be subject to the applicable disciplinary procedures and will be subject to discipline up to and including discharge from employment. For represented employees, provisions of the applicable collective bargaining agreement regarding investigation and discipline will be followed.
- b. UVM may require employees to satisfactorily participate in a drug abuse assistance or rehabilitation program.
- c. In addition to the sanctions imposed by UVM, drug and alcohol violations may be referred to the appropriate external authorities.

6. Summary of Relevant Provisions of Vermont and United States Law

Vermont law and United States laws control the possession and sale of alcoholic beverages and illicit drugs within the State of Vermont. Violations of these provisions may result in criminal sanctions. Involvement with the criminal justice system is a serious matter even if maximum fines or prison sentences do not result. A criminal record can adversely affect job opportunities, admission to graduate or professional schools, and eligibility for training and financial aid opportunities.

Vermont Penalties

Alcohol and Drugs

It is a crime for a person under twenty-one years old (minor) to procure, possess, or transport alcohol. Penalties for procuring, possessing, or transporting alcohol include a fine up to \$500 and/or imprisonment up to six months. It is a crime to sell or furnish alcohol to a minor. Penalties for selling or furnishing alcohol to a minor include a fine up to \$1,000 and/or imprisonment up to two years. It is a crime to misrepresent one's age, possess a false identification card, use someone else's identification card, forge or alter an identification card, or loan an identification card to another for the purpose of obtaining alcohol.

Incapacitation or "Detox"

Being taken to what is often referred to as "detox," results from consuming dangerous levels of alcohol. When a law enforcement officer encounters a person who s/he deems to be "incapacitated," the officer is required by law to take the person into "protective custody." "Incapacitation" means that the person appears to be in need of medical care or supervision to assure his/her safety due to his/her level of intoxication. This is a civil action to protect the incapacitated person and others, and while it is extremely unpleasant and involves handcuffs and other appropriate restraints, it is not necessarily in and of itself an arrest.

After the person is taken into protective custody, the officer is required to get the person the appropriate treatment, either at the emergency room or ACT 1, a 24-hour supervised shelter for individuals who are intoxicated and/or incapacitated by drugs or alcohol and who have come to the attention of law enforcement. If ACT 1 is full, or if the individual acts out, refuses to cooperate, or refuses treatment, then s/he will be taken to the jail's "drunk tank." Depending upon one's actions during the incident, individuals may be cited for civil and/or criminal violations.

Open Container Ordinance

City of Burlington ordinance prohibits the possession of open containers of alcohol and the consumption of alcohol in public places unless specific advance approval is obtained from the City of Burlington. City of Burlington ordinance prohibits the possession of open containers and the consumption of alcohol in motor vehicles at any time.

Marijuana

It is a crime to knowingly possess, cultivate, deliver, or sell marijuana. Penalty for a first violation of possession includes a fine up to \$500 and/or imprisonment up to 6 months. Penalties for delivering or selling include a fine up to \$10,000 and/or imprisonment up to two years. Subsequent violations, cultivation, delivering, or sales of 1/2 ounce or more include much heavier fines e.g. up to \$500,000 and much longer imprisonment, e.g. up to 15 years. 18 VSA section 4230.

Cocaine

It is a crime to knowingly possess, deliver, or sell cocaine. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$75,000 and/or imprisonment up to three years. Penalties for selling cocaine include fines up to \$100,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 2.5 grams or more include much heavier fines and much longer imprisonment. 18 VSA section 4231.

LSD

It is a crime to knowingly possess, deliver, or sell LSD. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$25,000 and/or imprisonment up to three years. Penalties for selling LSD include fines up to \$25,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 100 milligrams or more include much heavier fines and much longer imprisonment. It is a crime to knowingly possess, deliver, or sell hallucinogenic drugs other than LSD. Penalties are very similar to those for LSD. 18 VSA section 4235.

Heroin

It is a crime to knowingly possess, deliver, or sell heroin. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$75,000 and/or imprisonment up to three years. Penalties for selling heroin include fines up to \$100,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 200 milligrams or more include much heavier fines and much longer imprisonment. It is a crime to knowingly possess, deliver, or sell depressants, stimulants, and narcotic drugs other than heroin or cocaine. Penalties are very similar to those for heroin or cocaine. 18 VSA section 4234.

Federal Penalties

Forfeiture of Personal Property and Real Estate (21 USC 853)

Any person convicted of a federal drug offense punishable by more than one year in prison shall forfeit to the United States any personal or real property related to the violation, including houses, cars, and other personal belongings. A warrant of seizure is issued and property is seized at the time an individual is arrested on charges that may result in forfeiture.

Federal Drug Trafficking Penalties (21 USC 841 and Sentencing Guidelines, 18 USC Appendix)

Penalties for federal drug trafficking convictions vary according to the quantity of the controlled substance involved in the transaction. The following list is a sample of the range and severity of federal penalties imposed for first convictions. Penalties for subsequent convictions or convictions involving additional circumstances may be much more severe.

If death or serious bodily injury result from the use of a controlled substance which has been illegally distributed, the person convicted on federal charges of distributing the substance may face a mandatory life sentence and fines ranging up to \$8 million.

Persons convicted on federal charges of drug trafficking within 1,000 feet of a University (21 USC 845a) face penalties of prison terms and fines which are twice as high as the regular penalties for the offense, with a mandatory prison sentence of at least 1 year.

Drug/Substance	Amount	Penalty - 1st Conviction
Barbiturates	Any amount	Up to 5 years prison. Fine up to \$250,000
Cocaine	5 kgs. or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	Less than 500 grams	Up to 20 years prison. Fine up to \$1 million
Crack Cocaine	50 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	5-49 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
	5 grams or less	Up to 20 years prison. Fine up to \$1 million
Ecstasy	Any amount	Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised releases (following prison)
GHB	Any amount	Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised releases (following prison)
Hashish	10-100 kg	Up to 20 years imprisonment. Fine up to \$1 million.
	10 kg or less	Up to 5 years imprisonment. Fine up to \$250,000
Hash Oil	1-100 kg	Up to 20 years imprisonment. Fine up to \$1 million.
	1 kg or less	Up to 5 years imprisonment. Fine up to \$250,000
Heroin	1 kg or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	100-999 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
	100 grams or less	Up to 20 years prison. Fine up to \$1 million

Ketamine	Any amount	Up to 5 years imprisonment. Fine up to \$250,000. 2 years supervised release
LSD	10 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	1-10 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
Marijuana	1000 kg or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	100-999 kg	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
	50-99 kg	Up to 20 years imprisonment. Fine up to \$1 million
	50 kg or less	Up to 5 years imprisonment. Fine up to \$250,000
Methamphetamine	50 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	5-49 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
	5 grams or less	Up to 20 years prison. Fine up to \$1 million
PCP	100 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million
	10-99 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million
	10 grams or less	Up to 20 years. Fine up to \$1 million
Rohypnol	1 gram or more	Up to 20 years imprisonment. Fine up to \$1 million
	less than 1 gram	Up to 5 years imprisonment. Fine up to \$250,000

Federal Drug Possession Penalties (21 USC 844)

Persons convicted on Federal charges of possessing any controlled substance face penalties of up to 1 year in prison and a mandatory fine of no less than \$1,000 up to a maximum of \$100,000. Second convictions are punishable by not less than 15 days but not more than 2 years in prison and a minimum fine of \$2,500. Subsequent convictions are punishable by not less than 90 days but not more than 3 years in prison and a minimum fine of \$5,000. Possession of drug paraphernalia is punishable by a minimum fine of \$750.

Special sentencing provisions for possession of crack cocaine impose a mandatory prison term of not less than 5 years but not more than 20 years and a fine up to \$250,000, or both if:

- A. It is a first conviction and the amount of crack possessed exceeds 5 grams;
- B. It is a second conviction and the amount of crack possessed exceeds 3 grams;
- C. It is a third or subsequent crack conviction and the amount exceeds 1 gram.

Civil penalties of up to \$10,000 may also be imposed for possession of small amounts of controlled substances, whether or not criminal prosecution is pursued.

Definitions

“*Controlled Substance*” means a controlled substance or analog as defined in schedules I through V of section 202 of the Controlled Substances Act (21 USC section 812).

“*Conviction*” means a finding of guilt (including plea of guilty or nolo contendere) or imposition of sentences, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

“*Criminal Drug Statute*” means a criminal statute involving the manufacture, distribution, dispensation, use or possession of any controlled substance.

“*Employee*” includes staff, faculty, other academic, unclassified, classified, graduate assistants, student employees and other person having an employment relationship with UVM.

“*University Vehicle*” means any vehicle owned, leased or operated by UVM.

“*Workplace*” means any University premise or other location where an employee is engaged in University business.

Procedures

Refer to Policy Elaboration and, where applicable, to relevant provisions of any governing collective bargaining agreement.

Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

- For supervisors and managers with questions concerning applicability and enforcement of this policy:
Management Consulting Solutions
656-2241.
- For referral for services or awareness and prevention programs:
Employee Assistance Program
(800) 828-6025
<http://www.uvm.edu/hrs/?Page=healthy/wellness.html>

The Senior Vice President and Provost is the official responsible for the administration and interpretation of this policy.

Related Documents/Policies

Alcohol Policy – Faculty and Staff

http://www.uvm.edu/~uvmppg/ppg/general_html/alcohol_employees.pdf

Student Alcohol and Other Drug Policy

<http://www.uvm.edu/~uvmppg/ppg/student/drugandalco.pdf>

Commercial Driver Testing for Alcohol and Controlled Substances

<http://www.uvm.edu/~uvmppg/ppg/riskmgm/comdriver.pdf>

Effective Date

Approved by the President on October 26,2009