

<b>Policy title</b> Drug Abuse and Alcohol Prevention Program (DAAPP) Policy for Employees	<b>Category</b> Administration Human Resources
<b>Owner</b> Human Resources	<b>Approved by</b> Human Resources

## Purpose of this policy

In accordance with the Safe and Drug Free Schools & Campuses Act (34 C.F.R. Edgar Part 86) the following are the standards of conduct expected of Nebraska Wesleyan employees, as well as descriptions of short- and long-term health risks associated with substance abuse, applicable state and local laws, and resources for substance abuse.

## Policy statement

### NEBRASKA WESLEYAN UNIVERSITY - DRUG-FREE AND ALCOHOL-FREE WORKPLACE POLICY

Nebraska Wesleyan is committed to protecting the safety, health, and well-being of its employees (faculty, administration, and staff) and to providing an environment that is safe and conducive to a creative and productive educational environment. To this end, the University endorses the philosophy that the workplace should be free from the detrimental effects of alcohol and illicit drugs (as defined in this policy) during all working hours.

To ensure safety and workplace integrity, the University prohibits the use of and being under the influence of alcohol and the unlawful manufacture, possession, distribution, or use of or being under the influence of illicit drugs or use without medical authorization mind- or mood-altering chemicals or controlled substances, either while the employee is performing work on behalf of the University, as well as during all regular business hours and while the employee is on university premises.

#### Definitions and Prohibitions:

1. For purposes of this policy, the term "illicit drugs" includes all drugs, narcotics, and intoxicants for which possession or misuse is made illegal under federal, state, or local law (including marijuana), and includes prescription medication for which the employee does not have a valid prescription.
2. Prescription medication and over-the-counter drugs that are used in a manner inconsistent with prescription or dosing directions also are considered illicit drugs, as may be other chemical intoxicants used in a manner inconsistent with their intended purpose.
3. If an employee uses prescription and/or over-the-counter medications that may impair their ability to perform their job safely or competently, the employee must inform their supervisor or the Human Resource Director, so that steps may be taken to minimize the safety risks posed by such use. In such circumstances, the employee may be asked to obtain a doctor's certification that they are able to safely and competently perform the responsibilities of their position, with or without reasonable accommodation. Any information learned about an employee's health or medications will be treated confidentially and shared with personnel only on a need-to-know basis.
4. The University also prohibits the use or possession of alcohol during its regular business hours and/or while present on University premises.
  - o It shall not be a violation of this policy for alcohol to be served to and consumed by employees at special University events at which alcohol is served.
  - o Additionally, it shall not be a violation of this policy for an employee to be in brief possession of unopened alcohol that was received as a gift. Employees receiving personal gifts of alcohol are prohibited from opening the gift on University

premises and should remove such items by no later than the close of business on the day of receipt.

5. Employees are prohibited from reporting to work or performing work while under the influence of alcohol, illicit drugs, or mind/mood-altering chemicals that impact job performance.
6. Any employee convicted under a criminal drug or alcohol statute for a violation occurring in or involving the workplace shall notify his or her supervisor or the Human Resource Director of the conviction within five days of the conviction.

### **Drug and Alcohol Testing:**

In furtherance of this policy, the University may require employees to submit to a drug and alcohol testing under the following circumstances:

1. **Post-Accident Testing:** Where an employee is involved in an incident or accident that causes personal injury to the employee or another person or property damage while on duty, under circumstances where drug and/or alcohol use may have contributed to the incident and for which testing can identify impairment caused by drug or alcohol use, the employee may be asked to submit to a drug and alcohol test.
2. **Reasonable Suspicion Testing:** A drug and alcohol test may be required if there is a direct observation or credible report of drug or alcohol use that violates this policy, or if significant and observable changes in the employee's performance, appearance, behavior, speech, etc. provide reasonable suspicion of being under the influence of alcohol and/or illicit drugs.

Testing pursuant to this policy shall be conducted in accordance with applicable law. Employees will receive notification of positive test results and will be given an opportunity to explain such results. Failure to timely respond may result in an uncontested positive verification.

Submission to testing or examination may come with or without prior notice and is subject to the discretion of the University. Any employee who refuses to submit to the testing will be subject to disciplinary action, up to and including termination of employment. Any tampering with specimens submitted for screening, including the use of any adulterant, shall be grounds for termination.

### **Disciplinary Action:**

Compliance with this policy is a condition of employment with Nebraska Wesleyan. Anyone violating this policy, including failure to report for testing, falsification of the testing process, or a positive test result, may be subject to disciplinary action, up to and including termination of employment. Additionally, if an employee is convicted of violating any criminal drug or alcohol-related offense occurring in, impacting the reputation of, or involving the workplace, he or she will be subject to disciplinary action, up to and including termination of employment.

Questions about this policy and implementation procedures should be referred to the Human Resource Office.

NOTE: Nebraska Wesleyan University complies with the Drug-Free School and Communities Act Amendments of 1989 (Public Law 101-226) through the publication of the Alcohol and Drugs Policy and other written materials distributed annually to students and employees. Further information is available from the Student Life Office (ext. 2223).

## **Laws on Violations and Penalties for Abuse of Alcohol and Drugs**

This information summarizes selected provisions of Federal, State, and local laws which provide criminal and civil penalties for unlawful possession or distribution of alcohol or drugs. (References are to Nebraska statutes unless otherwise indicated)

### **Alcohol Laws**

#### **Minor in Possession**

Nebraska law makes it illegal for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. (S 53-180.02) Penalties for violation of this law may include one or more of the following:

impoundment of the offender's driver's license for thirty days or more; the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; or submission to an alcohol assessment by a licensed counselor. (S 53-180.05(4) and S 53- S 28-106(1))

Nebraska law also prohibits a minor from obtaining alcohol by misrepresenting one's age or creating false identification for a person under the age of 21. (S 53-180.01 and S 53-180.05)

#### **Safe Harbor for Requesting Emergency Medical Assistance**

If a person has otherwise violated the Minor-in-possession law, no penalty will be imposed if the person (i) requested emergency medical assistance in response to a possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent; (ii) was the first person to make the request for medical assistance; and (iii) remained on the scene until the medical assistance arrived and cooperated with medical assistance and law enforcement personnel when emergency assistance was requested for the possible alcohol overdose of another person. (S 53-180.05(4) and S 53-181)

## **Procuring Alcohol for Minors**

Nebraska law makes it "legal to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor. (S 53-180) Violation of this law is generally punishable by not more than a 1-year imprisonment or a \$1,000 fine or both. (S 53- and S 28106(1)) However, if alcohol is knowingly and intentionally provided to a minor and the minor's consumption of the alcohol or impaired condition leads to the serious bodily injury or death of any person, the person who provided the alcohol is guilty of a Class IIIA felony, which includes a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18-month post-release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. (S 53-180.05(2) and S 28-105(1))

## **Consumption on Public Property**

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. (S 53-186)

### **Driving While Intoxicated—Age 21 and Above**

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a blood alcohol concentration ("BAC") of .08% or more. (S 60-6,196) Violators are subject to a range of penalties, which can include fines, imprisonment, license revocation, and use of an ignition interlock device installed at their expense. Persons with higher concentrations of alcohol, a BAC of .15% or more, are subject to stiffer penalties.

### **Driving While Intoxicated—under Age 21**

Nebraska has a "zero-tolerance" DWI law for underage drinkers. This law makes it illegal for a person under the age of 21 to drive if he or she has a BAC of .02% or more. Violation will result in the impoundment of the driver's license for 30 days, and if the driver refuses to submit to a blood or breath test, the driver's license will be impounded for 90 days. These penalties are in addition to any that may result if the BAC is above .08%. (60-6,211.01)

## **Local Liquor Laws**

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol (e.g., "open container laws).

## **Laws Governing Illegal Possession of Controlled Substances**

Nebraska's Uniformed Controlled Substances Act ("UCSA") Governs the regulation of most illegal "drugs, which are also called controlled substances. (S 28401 et seq.) There are other Nebraska laws which establish penalties for various drug-related offenses. Federal and local also regulate the manufacture, distribution and use of controlled substances.

Prohibited Acts under the UCSA, it is illegal to manufacture, distribute, deliver, dispense or possess with the intent to take any of these actions involving controlled substances or counterfeit controlled substances. The definition of controlled substances includes, but is not limited to marijuana, cocaine, heroin, amphetamines, and anabolic steroids. Depending on the type of controlled substance involved, the quantity, and the nature of the offense, violations of the UCSA can result in fines of up to \$10,000 and imprisonment of up to 20 years.

## **Crimes Involving Minors**

Any person who is age 18 or older is subject to enhanced penalties for knowingly and intentionally manufacturing, distributing, delivering, or possessing with intent to commit one of these actions involving controlled substances to persons under the age of 18 (a) within 1,000 feet of a school, college, university, or playground or (b) within 100 feet of a youth center, public swimming pool, or video arcade. The law also provides for an enhanced penalty for anyone 18 or older who employs, uses, induces, or coerces any person under age 18 to commit any act which violates the IJCSA. (S 28-416(4) and (5))

Persons under the age of 18 who violate the drug laws may also be subject to sentencing provisions which include impounding driver's licenses or permits, completion of community service, and attending drug education classes. (S 28416(4))

## Using Controlled Substances for Unauthorized Purpose

Persons may legally possess controlled substances which have been prescribed by licensed health practitioners if they are used for the prescribed purpose. It is illegal to be under the influence of a controlled substance which is being used for a purpose other than the treatment of a sickness or injury as prescribed or administered by a licensed practitioner. If a person is prosecuted under this provision, it is sufficient for the State to show that the accused manifested symptoms or reactions caused by the use of any controlled substance and the State is not required to show that the accused was under the influence of a specific controlled substance. (S 28-417)

## Drug Paraphernalia Offenses

The UCSA also prohibits the use, or possession with the intent to use, drug paraphernalia used to manufacture, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body. (S 28-441) "Drug paraphernalia" includes such things as hypodermic syringes, needles, pipes, bongs, roach clips, and other items used, designed, or intended for use with controlled substances. (S 28-439) Use or possession of drug paraphernalia is punishable by fines up to \$500, depending on whether it is a first or repeat offense. (SS 28-441 and 28-436)

Nebraska law prohibits the manufacture and delivery of drug paraphernalia generally (S 28442) The penalties for delivery or manufacture of drug paraphernalia can include up to 6 months in prison, a \$1,000 fine, or both. (SS 28-442 and 28-106) There are enhanced penalties for persons over the age of 18 who deliver drug paraphernalia to persons who are under the age of 18 and at least 3 years his or her junior. (SS 28-442 and 28-106)

## Inhaling or Drinking Controlled Substances

The UCSA prohibits persons from breathing, inhaling, or drinking any compound, liquid, or chemical- containing substances to induce a condition of intoxication, stupefaction, depression, giddiness, paralysis, inebriation, excitement, or irrational behavior, or in any manner changing, distorting, or disturbing the auditory, visual, mental, or nervous processes. (S 28417) Violations can result in a penalty of up to three months imprisonment, a \$500 fine, or both. (528-106)

Questions about this policy and implementation procedures should be referred to the Human Resource Office.

### Resources outside of the Employee Assistance Program

- Blue Valley Behavioral Health 402-261-4017
- CenterPointe 402-475-5161
- The Bridge Behavioral Health Detox 402-477-3951
- Fresh Step Recovery and Wellness Center 402-434-2730
- Independence Center 402-481-5268
- Lutheran Family Services 402-435-2910
- St. Monica's 402-441-3768
- Touchstone 402-474-4343