

Drug Free Campus Policy

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Standards of Conduct for Employees and Students Regarding Alcohol and Drugs

The illegal possession, use or distribution of drugs or alcohol by students and employees is a violation of University rules as well as State and Federal laws. The Board of Regents of the University of Nebraska has directed officers of the University to cooperate with State and Federal agencies in the prevention of drug abuse. See Board of Regents of the University of Nebraska, Minutes, Vol. 29, pp. 90-91 (September 12, 1967). In satisfaction of this mandate and in order to fulfill its obligations under the Drug Free Workplace Act of 1988, 41 U.S.C. § 701 and the Drug Free Schools and Communities Act of 1989, 20 U.S.C. § 1145g, the University has formulated standards of conduct for both its employees and its students which prohibit the following acts:

1. use, possession, manufacture, distribution or sale of illegal drugs or drug paraphernalia on University premises or while on University business or at University activities, or in University supplied vehicles either during or after working hours;
2. unauthorized use or possession or manufacture, distribution, or sale of a controlled substance as defined by the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., or Nebraska Drug Control Laws, Neb. Rev. Stat. §§ 28-401 et seq., on University premises, or while engaged on University business or attending University activities, in University supplied vehicles, either during or after working hours;
3. unauthorized use, manufacture, distribution, possession, or sale of alcohol on University premises or while on University business or at University activities, in University supplied vehicles, either during or after working hours;
4. storing in a locker, desk, vehicle, or other place on University owned or occupied premises, any unauthorized controlled substances, drug paraphernalia or alcohol;
5. use of alcohol off University premises that adversely affects an employee's or student's work or academic performance, or an employee's or student's safety or the safety of others;
6. possession, use, manufacture, distribution or sale of illegal drugs off University premises that adversely affects the employee's work performance or the student's academic performance, or an employee's or student's safety or the safety of others;
7. violation of State or Federal laws relating to the unauthorized use, possession, manufacture, distribution or sale of alcohol, controlled substances or drug paraphernalia;
8. in the case of employees failure to notify an employee's supervisor of an employee's arrest or conviction under any criminal drug statute as a result of a violation of law which occurs at the University of Nebraska workplace.

[The Standards of Conduct were approved by the Regents in 1990. See Board of Regents of the University of Nebraska, Minutes, Vol. 55, p. 205 (October 12, 1990).]

Description of Applicable Legal Sanctions Under Federal, State or Local Law for Unlawful Possession or Distribution of Illicit Drugs and Alcohol

The information on the following pages summarizes selected provisions of Federal, State, and local laws which provide criminal and civil penalties for unlawful possession or distribution of drugs and alcohol.

Federal Penalties and Sanctions for Illegal Possession of Controlled Substances:

- **21 U.S.C. § 844(a)**
1st Conviction: Up to 1 year imprisonment and fine of at least \$1,000 or both.
After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fine of at least \$2,500.
After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fine of at least \$5,000.
Special sentencing provisions for possession of crack cocaine: Mandatory minimum 5 years in prison, maximum 20 years and minimum fine of \$1,000, if:
 - 1st conviction and the amount of crack possessed exceeds 5 grams.
 - 2nd crack conviction and the amount of crack possessed exceeds 3 grams.
 - 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.
- **21 U.S.C. § 853(a) (2) and 881(a) (7)**
Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack.)
- **21 U.S.C. § 881(a) (4)**
Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.
- **21 U.S.C. § 844(a)**
Civil fine of up to \$10,000.
- **21 U.S.C. § 862**
Denial of Federal benefits, such as student loans, grants, contracts and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.
- **18 U.S.C. § 922(g)**
Ineligible to receive or purchase a firearm.
- **Miscellaneous**
Revocation of certain Federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

Note: These are only Federal penalties and sanctions. Additional State penalties and sanctions may apply.

Two charts on federal trafficking penalties can be viewed using Adobe Acrobat© Reader. The charts were taken from United States Department of Justice, Drug Enforcement Administration,

Drugs of Abuse (1997 edition). These charts summarize trafficking penalties under Federal law for various types of drugs.

State Penalties and Sanctions for Illegal Possession of Controlled Substances

The framework for the regulation of most drugs, also called controlled substances, is set out in the Uniform Controlled Substances Act. In addition, there are other Nebraska State laws which establish penalties for various drug related offenses which are summarized below. Charts containing a summary of sanctions under Nebraska law for possession or distribution of various drugs can be viewed using Adobe Acrobat© Reader.

Crimes Involving Minors: Any person 18 years of age or older who distributes, delivers or sells controlled substances to a person under the age of 18 years shall be punished by the next higher penalty classification for a first offense or second offense involving drugs such as heroin, speed, cocaine, LSD, or pentazocine. The law also provides for an enhanced penalty for anyone 18 years of age or older to employ, use, persuade, or coerce any person under the age of 18 years to manufacture, transport, distribute, carry, deliver, dispense, or possess with intent to do the same of a controlled substance or a counterfeit controlled substance. Neb. Rev. Stat. § 28-416(4) and (5) (Supp. 1999).

Tax Provisions: Anyone who possesses or sells the following amounts of controlled substances must pay the appropriate taxes to the Nebraska Department of Revenue and have the stamps attached to the controlled substances:

- Marijuana is taxed at \$100 for each ounce or portion of an ounce.
- Any controlled substance which is sold by weight or volume (i.e., cocaine, crack, methamphetamine, etc.) is taxed at \$150 for each gram or portion of a gram.
- Any controlled substance which is not sold by weight (i.e., LSD, quaaludes, methamphetamine in tablets, PCP, etc.) is taxed at \$500 for each 50 dosage units or portion thereof.
- Failure to have the proper tax stamps attached to the controlled substance carries a criminal penalty of up to five years imprisonment or a \$10,000 fine or both. A penalty equal to 100% of the unpaid tax will also be assessed and both the tax and the penalty may become a lien upon the property owned by the person against whom the tax is assessed. Neb. Rev. Stat. §§ 77-4301 to 77-4316 (Reissue 1996).

Property Forfeiture: Property used to manufacture, sell or deliver controlled substances can be seized and forfeited to the state. Property subject to forfeiture may include cash, cars, boats, and airplanes. Neb. Rev. Stat. § 28-431 (Cum. Supp. 1998).

Being Under the Influence of Any Controlled Substance for Unauthorized Purpose: It is a violation of Nebraska law to be under the influence of any controlled substance for a purpose

other than the treatment of a sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings. Neb. Rev. Stat. § 28-417(1) (g) (Reissue 1995).

Drug Paraphernalia Offenses: It is a violation of Nebraska law to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, ingest, inhale or otherwise introduce into the human body a controlled substance. Neb. Rev. Stat. § 28-441(1) (Reissue 1995). "Drug paraphernalia" is defined to include such things as hypodermic syringes, needles, pipes and bongs and other items used, intended for use or designed for use with controlled substances. Neb. Rev. Stat. § 28-439 (Reissue 1995). It is unlawful to deliver or manufacture drug paraphernalia. Neb. Rev. Stat. § 28-442 (Reissue 1995). It is a violation of Nebraska law for a person 18 years of age or older to deliver drug paraphernalia to a person under the age of 18 who is at least 3 years his or her junior. Neb. Rev. Stat. § 28-443 (Reissue 1995).

A violation of Neb. Rev. Stat. § 28-441 is punishable by a fine of not more than \$100 for first offense, not less than \$100 and not more than \$300 for second offense, and not less than \$200 and not more than \$500 on third or subsequent conviction. Neb. Rev. Stat. §§ 28-441 and 29-436 (Reissue 1995). The penalty for violation of Neb. Rev. Stat. § 28-442 is not more than six months imprisonment or \$1,000 fine or both. Neb. Rev. Stat. § 28-442 (Reissue 1995) and § 28-106 (1) (Cum. Supp. 1998). The penalty for violation of Neb. Rev. Stat. § 28-443 is imprisonment for not more than one year, or \$1,000 fine, or both. Neb. Rev. Stat. § 28-443 (Reissue 1995) and § 28-106 (1) (Cum. Supp. 1998).

Imitation Controlled Substances: It is a violation of Nebraska law to knowingly, intentionally manufacture, distribute, deliver or possess with intent to distribute or deliver an imitation controlled substance. "Imitation controlled substance" is a substance which is not a controlled substance but which is represented to be an illicit controlled substance. Neb. Rev. Stat. § 28-445 (Reissue 1995). First offense violations of this law are punishable by three months imprisonment, or \$500 fine, or both. A second offense violation of this statute is punishable by not more than six months imprisonment, or \$1,000 fine, or both. Neb. Rev. Stat. § 28-445 (Reissue 1995) and § 28-106 (1) (Cum. Supp. 1998).

Controlled Substance Analogue: For purposes of Nebraska's Uniform Controlled Substance Act, analogue controlled substances (often called "designer drugs") are treated as controlled substances. Such an analogue is defined as (a) substantially similar in chemical structure to the chemical structure of a controlled substance or (b) having a stimulant, depressant, analgesic or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the effect of a controlled substance. Neb. Rev. Stat. § 28-401 (36) (Supp. 1999).

Selected Nebraska Alcohol Offenses

Minor In Possession: It is against the law for a person under the age of 21 years to possess alcohol. Neb. Rev. Stat. § 53-180.02 (Reissue 1998). Violation of this law is punishable by three

months imprisonment, or \$500 fine, or both. Neb. Rev. Stat. § 53-180.05 (1) (Reissue 1998) and § 28-106 (1) (Cum. Supp. 1998). As part of sentencing a judge may order an offender to become part of a public work detail under the supervision of the County Sheriff for not more than 10 days in lieu of the above penalties. Neb. Rev. Stat. § 53-180.05 (1) (Reissue 1998).

Procuring Alcohol: It is a violation of Nebraska law to sell, give away, dispose of, exchange, or deliver, or permit the sale, gift or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. Neb. Rev. Stat. § 53-180 (Reissue 1998). Violation of this law is punishable by not more than 1 year imprisonment, or \$1,000 fine, or both. Neb. Rev. Stat. § 53-180.05 (1) (Reissue 1998) and § 28-106 (1) (Cum. Supp. 1998).

Consumption on Public Property: It is a violation of Nebraska law for any person to consume alcoholic liquors in the public streets, alleys, parking areas, roads or highways, or inside vehicles while upon the public streets, alleys, parking areas, roads, or highways; or upon property owned by the state or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. Neb. Rev. Stat. § 53-186 (Supp. 1999). A violation of this statute is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within two years is punishable by a fine not less than \$100 and not more than \$300; a third offense within two years is punishable by a fine of not less than \$200 and not more than \$500. Neb. Rev. Stat. § 53-136 (Reissue 1998) and § 29-436 (Reissue 1995).

Driving While Intoxicated: Driving while under the influence of intoxicating liquors or drugs is a violation of Nebraska law. Neb. Rev. Stat. § 60-6,196 (Supp. 1999). Violation of this law is punishable on first offense by not more than 60 days, not less than 7 days imprisonment and not more than \$500 fine but not less than \$400 fine. Neb. Rev. Stat. § 28-106 (1) (Cum. Supp. 1998). In addition, an offender's drivers license is revoked for six months and the offender is ordered not to drive any motor vehicle for any purpose for a like period. Neb. Rev. Stat. § 60-6,196 (2) (a) (Supp. 1999). Suspended sentence of probation includes mandatory requirement that probation or suspension be conditioned on order that offender will not drive any motor vehicle for any purpose for sixty days. Neb. Rev. Stat. § 60-6,196 (2) (a) (Supp. 1999).

Penalties for second offense result in a mandatory thirty days imprisonment and \$500 fine. Neb. Rev. Stat. § 28-106 (1) (Cum. Supp. 1998). As part of the judgment of conviction the offender is ordered not to drive any motor vehicle for any purpose for a period of one year and the offender's operator's license is revoked for a like period. Neb. Rev. Stat. § 60-6,196 (2) (b) (Supp. 1999). If an offender is placed on probation or the sentence is suspended, one of the mandatory conditions of probation or sentence suspension is that the offender must be ordered not to drive any motor vehicle in the state for any purpose for a period of six months, and the probation order shall include as one of its conditions confinement in the city or county jail for forty-eight hours or the imposition of not less than two hundred forty hours of community service. Neb. Rev. Stat. § 60-6,196 (2) (b) (Supp. 1999).

Third or subsequent convictions result in not more than five years imprisonment or ten thousand dollars fine, or both. Neb. Rev. Stat. § 28-105 (Cum. Supp. 1998). Offenders in this class may not drive any motor vehicle in the state for any purpose for a period of fifteen years and their operator's license is revoked for like period. Neb. Rev. Stat. § 60-6,196 (2) (d) (Supp. 1999). Probation or suspension of sentence for this offense must be conditioned so that the offender is ordered not to drive any motor vehicle in the state for any purpose for a period of one year and probation must be conditioned on an offender's confinement in the city or county jail for ten days or the imposition of not less than four hundred eighty hours of community service. Neb. Rev. Stat. § 60-6,196 (2) (d) (Supp. 1999).

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.

Description of Health Risks Associated with Use of Illicit Drugs and Abuse of Alcohol

A chart on the [uses and effects of controlled substances](#) can be viewed using [Adobe Acrobat® Reader](#). The chart is taken from United States Department of Justice, Drug Enforcement Administration, Drugs of Abuse (1997 edition). The chart contains a description of health risks associated with various drugs covered by the Federal Controlled Substances Act. The summary of health risks associated with alcohol is taken from United States Department of Education, What Works: Schools Without Drugs (1989 edition).

Alcohol: Alcohol consumption causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses of alcohol also increase the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations, and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage to vital organs such as the brain and the liver.

Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation. In addition, research indicates that children of alcoholic parents are at greater risk than other youngsters of becoming alcoholics.

Drug and Alcohol Counseling

Students: The Community Health Education Department of the [University Health Center](#), 15th and U Streets, offers a variety of alcohol and other drug abuse prevention and education services for students including confidential assessment and referral services, alcohol and other drug education classes, support and problem-solving groups, and peer alcohol educators and drug prevention specialists. The telephone number is 402-472-7440.

Faculty and Staff: The [Employee Assistance Program \(EAP\)](#) at the University of Nebraska-Lincoln is available to all faculty and staff and their immediate family members in need of information and/or assistance with any personal concern, including alcohol or drug-related problems. The EAP provides confidential, free, professional, short-term counseling, assessment and referral for employees and/or family members who need assistance regarding substance abuse or dependency. Tenure or any other employment status will NOT be jeopardized for employees seeking help from the EAP. The EAP office is located at 501 Stadium Drive, Room 128 on City Campus. Office telephone numbers are 402-472-3107 or 1-800-755-2655. EAP staff in the Human Resources department are responsible for conducting substance abuse awareness and education training for faculty and staff.

Disciplinary Sanctions

Students: Violations of the Student Code of Conduct may result in the imposition of sanctions up to and including expulsion from this institution and referral for prosecution by the proper authorities under local, State and/or Federal law. One or more of the following sanctions may be imposed as provided in the Student Code of Conduct and Disciplinary Procedures: warning, restitution, probation, behavioral requirement, suspension, expulsion.

Faculty and Staff: Violation of the employee standards of conduct may result in the imposition of sanctions up to and including termination of the employee's employment and referral for prosecution by the proper authorities under local, State and/or Federal law. A University of Nebraska-Lincoln employee who violates drug laws and/or abuses substances prior to or during University work hours and/or activities will be subject to disciplinary action as outlined in Human Resources Policies and Procedures.