

# ***Policies and Procedures***

<b>SECTION:</b> <b>Administration</b>	<b>NO.</b> <b>2.2.15.</b>		
<b>CHAPTER:</b> <b>Human Resources</b>	<b>ISSUED:</b> 4/18/89	<b>REV. A</b> 9/10/92	<b>REV. B</b>
<b>POLICY:</b> <b>Drug and Alcohol Use</b>	<b>PAGE 1 OF 6</b>		

## **PURPOSE**

The University's policy on drug and alcohol use is designed to satisfy the requirements of the Drug-Free Schools and Communities Act. Consistent with its mission, the University is also concerned about the medical problems of alcoholism and drug abuse, especially when they affect an employee's attendance and performance on the job. Alcoholism and drug dependence are treatable illnesses, and as such, employees whose job performance is adversely affected by such illnesses should seek diagnosis and treatment.

## **POLICY**

### **A. Standards of Conduct / Disciplinary Sanctions**

Creighton University standards of conduct prohibit the unlawful possession, use, or distribution of illicit drugs and/or alcohol by students and employees on University property or as part of any of the University's activities. "Illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol, including anabolic steroids. State and federal laws, and any applicable city ordinances, pertaining to the possession and use of illicit drugs and alcoholic beverages shall be observed by all University students and employees. By way of illustration, this means that it is a violation of University policy for students or employees to unlawfully purchase, manufacture, possess, consume, use, sell or otherwise distribute such items on campus or during University activities.

Employee violations of the standards of conduct stated in the above paragraph shall result in disciplinary sanctions as stated in the *Handbook for Faculty* or *Staff Handbook*, as the case may be, and/or as stated below, which may include, but are not limited to:

- Warning;
- Disciplinary probation;
- Suspension;
- Termination of employment;
- Referral to an appropriate drug/alcohol treatment program; and/or;
- Any other action considered necessary or appropriate by University officials, including referral to law enforcement officials for prosecution.

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## **B. Health Risks**

Numerous health risks have been identified with substance abuse (use of illicit drugs and abuse of alcohol). Some of those health risks are discussed in APPENDIX A.

## **C. Treatment for Drug and/or Alcohol Problems**

Different health insurance plans offer different levels of coverage for counseling and treatment of drug and alcohol problems. Refer to the description of your plan for specific levels of coverage for these services.

## **D. Legal Prohibitions and Sanctions**

1. State Prohibitions (Section References are to Nebraska State Statutes)
  - a. Except as authorized by the Uniform Controlled Substances Act, it is unlawful to knowingly or intentionally manufacture, distribute, deliver, or dispense a controlled substance, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance. Sec. 28-416(1).
  - b. Depending on the controlled substance involved and its quantity, violation of paragraph (1) with respect to a scheduled controlled substance can be a Class II, Class III, or Class IV felony, except as provided in paragraphs (3) and (4) below. Sec. 28-416(2).
  - c. Any person who violates paragraph (1) with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:
    1. 7 or more ounces is guilty of a Class IC felony; or
    2. At least 1 ounce but less than 7 ounces is guilty of a Class ID felony. Sec. 28-416(4).
  - d. Any person who violates paragraph (1) with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:
    1. 28 grams or more is guilty of a Class IC felony; or
    2. At least 10 grams but less than 28 grams is guilty of a Class ID felony. Sec 28-416(5).

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- e. Any person knowingly or intentionally possessing a controlled substance (other than marijuana), unless obtained directly from or by prescription or order from a practitioner while acting in the course of his/her practice, or except as otherwise authorized by the Controlled Substances Act, is guilty of a Class IV felony. Sec. 28-416(3).
- f. Any person knowingly or intentionally possessing marijuana weighing more than 1 ounce but not more than 1 pound is guilty of a Class IIIA misdemeanor. Sec. 28-416(6).
- g. Any person knowingly or intentionally possessing marijuana weighing more than 1 pound is guilty of a Class IV felony. Sec. 28-416(7).
- h. Any person knowingly or intentionally possessing marijuana weighing 1 ounce or less is:
  - 1. For the first offense, guilty of an infraction, receives a citation, may be fined \$100 and may be assigned to attend a drug abuse course of instruction.
  - 2. For the second offense, guilty of a Class IV misdemeanor, receives a citation, and may be fined \$200 and imprisoned not to exceed 5 days.
  - 3. For the third and all subsequent offenses, guilty of a Class IIIA misdemeanor, receives a citation, and may be fined \$300, and imprisoned not to exceed 7 days. Sec. 28-416(8).
- i. Any person who is 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, is guilty of a Class III misdemeanor. Sec. 28-417.
- j. It is a Class IV felony to knowingly or intentionally: (a) acquire or attempt to acquire a controlled substance by theft, misrepresentation, fraud, forgery, deception or subterfuge; (b) possess a false or forged prescription for a controlled substance; or (c) communicate information to a practitioner in an effort to unlawfully procure a controlled substance or a prescription for a controlled substance. Sec. 28-418.

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- k. No person may sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any person under the age of 21. Sec. 53-180. This is a Class I misdemeanor. Sec. 53-180.05.
- l. No one under the age of 21 may obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any place where alcoholic liquor is sold. Sec. 53-180.05.
- m. No one under the age of 21 may sell or dispense or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place including public streets, alleys, roads, highways, or inside any vehicle. Sec. 43-180.02. This is a Class III misdemeanor. The offender may also be required to work on streets, parks, or other public property for up to 10 days. Sec. 53-180.05.
- n. Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of 21 is guilty of a Class I misdemeanor. Sec. 53-180.05.

## 2. Sanctions Under State Law

Class I Misdemeanor:	Maximum - Not more than 1 year imprisonment, or \$1,000 fine, or both.
Class III Misdemeanor:	Maximum - 3 months imprisonment, or \$500 fine, or both.
Class IIIA Misdemeanor:	Maximum - 7 days imprisonment, or \$500 fine, or both.
Class IV Misdemeanor:	Maximum - \$500 fine; Minimum - \$100 fine.
Class IC Felony:	Maximum - 50 years imprisonment; Mandatory minimum - 5 years imprisonment.
Class ID Felony:	Maximum - 50 years imprisonment; Mandatory minimum - 3 years imprisonment.
Class II Felony:	Maximum - 50 years imprisonment; Minimum - 1 year imprisonment.

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Class III Felony: Maximum - 20 years imprisonment, or \$25,000 fine, or both.

Class IV Felony: Maximum - 5 years imprisonment, or \$10,000 fine, or both.

### 3. Federal Prohibitions and Sanctions

A variety of federal statutes also prohibit the unlawful possession or distribution of illicit drugs. The federal prohibitions and sanctions are discussed in APPENDIX B.

## **SCOPE**

This policy applies to all University employees and employees of contractors to the University, to all students, and to campus visitors, as well.

In addition, any employee who accepts or performs University employment which involves direct engagement in work under any federal grant or federal procurement contract,\* is hereby notified that, as a condition of employment in such grant or on such contract, he or she must abide by the terms of this policy. In addition, any such employee must notify the University's Human Resources Director of any criminal drug statute conviction, for a violation occurring in a grant or contract workplace, no later than five days after such conviction. Upon receipt of such notice, the University will, where required by the Act:

- 1) take appropriate personnel action against the employee, which may include actions up to and including termination; or,
- 2) require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by federal, state, or local health, law enforcement or other appropriate agency.

\* a contract awarded to the University by any federal agency for the procurement of any property or services of a value of \$25,000 or more, or, a grant made to the University by any federal agency. Employees found to be in violation of this policy will be subject to any consideration for rehabilitation and/or disciplinary action, including possible termination of employment.

## **DEFINITIONS**

**Illicit drug use:** means the use of illegal drugs and the abuse of other drugs and alcohol, including anabolic steroids.

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### **ADMINISTRATION AND INTERPRETATIONS**

Questions related to Creighton University's policy on drug and alcohol use can be directed to the Department of Human Resources and its Director.

### **AMENDMENTS OR TERMINATION OF THIS POLICY**

Creighton University reserves the right to modify, amend, or terminate this policy at any time, especially to comply with changes in the Drug-Free Schools and Communities Act. Nothing in this policy should be construed as a contract between Creighton University and its employees.