

3359-47-02 Drug-free workplace policy.

The university considers the use of drugs as well as their abuse to be a very serious matter and one that cannot be tolerated. As a responsible source and participant with the federal government in many programs and activities, including student financial aid and federal grants and contracts for research, the university is required to follow federal law, including the “Safe and Drug Free Schools and Communities Act” and the “Drug Free Workplace Act” and cannot tolerate the illegal use of drugs in the face of the federal government's increasing efforts to combat drug abuse. Therefore, it is expected that employees will abide by the terms of this policy.

It shall continue to be the policy of the university of Akron to maintain a drug-free workplace. Recognizing that illegal drug use poses health and safety hazards to employees and to the community at large, the possession or use of illegal drugs on all university property and at any other location where employees are conducting university business is prohibited. All employees are henceforth notified that the unlawful manufacture, distribution, dispensing, possession, or use of any drug or controlled substance is prohibited at the university of Akron.

(A) Drug-free awareness program.

The university of Akron hereby establishes a drug-free awareness program. Under this program, the university will from time to time publish literature warning about the dangers of the abuse of drugs in the workplace or in any environment. The program will specifically cover the following major topics:

- (1) Health and safety concerns associated with drug abuse;
- (2) University policy regarding illegal drug use;
- (3) Availability of counseling and assistance for employees;
- (4) Penalties that may be imposed for drug-abuse violations.

(B) Medical marijuana.

The use and possession of marijuana is prohibited by, and remains both a violation of university policy and a crime under federal law, despite Ohio law allowing certain activities related to the possession and use of medical marijuana. This prohibition applies even when the possession and use would be legal under the laws of the state of Ohio. Individuals with medical marijuana prescriptions/cards are not permitted to use medical marijuana on campus, in the conduct of university business or as related to any university activity. Sanctions for students and employees who are found to be in possession of, or using medical marijuana will be consistent with applicable university rules and may include suspension, dismissal and/or termination from

employment. This prohibition does not extend to research related to marijuana that is approved by an authorized federal, state or local entity. The university will reasonably accommodate employees and students who are legally authorized Ohio medical marijuana users on a case-by-case basis.

(C) Compliance with university substance abuse policy.

All university of Akron employees are expected to abide by the terms of this policy. An employee found to be in possession of or using illegal drugs shall be subject to the sanctions. Such employee shall be subject to such disciplinary procedures as from time to time are promulgated by the board of trustees, up to and including termination, but in accordance with the established rights of the employee, including the right to due process.

The university of Akron board of trustees reserves the right to test and to otherwise secure the workplace in order to achieve and maintain compliance with the "Drug-Free Workplace Act," subject, however, to those rights guaranteed to employees, the requirements of applicable statutes and regulations, and the restraints contained in the state and federal constitutions.

All university employees who are engaged in employment or other work under the terms of any grant from an agency of the federal government shall as a condition of employment abide by the following requirements:

- (1) Acknowledge receipt of and abide by the terms of the university's drug-free policy.
- (2) Notify his/her administrative supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. Any employee who fails to report a substance abuse conviction within five days will be subject to sanctions, up to and including termination of employment.

Upon receipt of notice under the preceding paragraph or if the university should otherwise receive actual notice of such conviction, the university shall notify the granting or contract agency within ten days after receiving such notice.

Any employee who is in any way chemically dependent will not be disciplined for disclosing his/her dependency; such employee will not be disciplined for not coming forward, unless the dependency hinders the ability of the employee to perform his/her job. If it is found that the dependency adversely affects the employee's job performance, such employee shall be subject to sanctions, up to and including termination.

Upon receipt of a notice of conviction of an employee for violation of any criminal drug statute, the university, within thirty days of receiving such notice, shall:

- (a) Take appropriate personnel action against such an employee subject to established disciplinary procedures, up to and including termination, in accordance with requirements of due process; or
- (b) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

The principal investigator of any grant, project, or contract from a federal agency is required to ensure that each employee engaged in the performance of the grant be given a copy of and acknowledge receipt of this policy.

(D) Employee assistance program.

The university of Akron currently has an employee assistance program to provide confidential, professional counseling services to eligible persons. Such services include assisting employees with problems such as drug abuse. Any employee suspected of drug abuse or other use of drugs will be expected to participate in such program and may be referred thereto. The university's employee assistance program makes available drug counseling and rehabilitation efforts.

(E) Due process.

If any disciplinary action under this policy is taken against an employee who is tenured, nontenured, or not part of a collective bargaining unit, such employee may formally appeal the action to the board of trustees within ten days. Such employee will receive a hearing before the board or its designated representative, at which time the employee may offer evidence, cross examine witnesses, and have an attorney present.

If disciplinary action under this policy is taken against an employee covered by a collective bargaining agreement, the action will be subject to grievance procedures set forth in the bargaining agreement.

(F) Definitions.

For purposes of this policy statement, the following definitions shall apply:

- (1) "Unlawful manufacture"--to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis, compounding, or any combination of the same

and includes packaging, repackaging, labeling, and other activities incident to production.

- (2) "Distribute"--to deal in, ship, transport, or deliver but does not include administering or dispensing a drug.
- (3) "Dispense"--to sell, leave with, give away, dispose of, or deliver.
- (4) "Possess or Possession"--having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (5) "Use"--use of a drug or other controlled substance.
- (6) "Drug abuse offense"--corrupting another with drugs, trafficking in drugs, drug abuse, possessing drug abuse instruments, permitting drug abuse, theft of drugs, deception to obtain a dangerous drug, illegal processing of drug documents, abusing harmful intoxicants, trafficking harmful intoxicants, or illegal dispensing of drug samples; a violation of any existing or former law of this or any other state or of the United States that is substantially equivalent to any of the above offenses; an offense under an existing or former law of this or any other state or of the United States of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element; or a conspiracy or an attempt to commit, or complicity in committing or attempting to commit any of the above offenses.
- (7) "Controlled substance"--a drug, compound, mixture, preparation, or other substance as defined in Chapters 2925. and 3719. of the Ohio Revised Code, or as defined by applicable statutes of other states and the federal government.

(G) Good faith.

The university, in adopting and implementing this policy pursuant to the "Drug-Free Workplace Act of 1988," further certifies that it will make a good faith effort to continue to maintain a drug-free workplace and to respect the privacy rights of its employees.

Effective: 12/22/2016

Certification: _____
Ted A. Mallo
Secretary
Board of Trustees

Promulgated Under: 111.15

Statutory Authority: 3359

Rule Amplifies: 3359

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