

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Drug Free Environment

NUMBER: 4:27

Drug Free Workplace Policy

The South Dakota Board of Regents is committed to providing a drug free workplace. Additional regulations may be found in sections 5.4.3(F), 15.1.1 and 15.1.2. It is the intent of the Board that all employees regardless of their faculty, exempt or career service status be subject to the policies set out in those provisions.

DRUG FREE WORKPLACE

Compliance with the Drug-Free Workplace Act of 1988

The South Dakota Board of Regents strictly proscribes the unlawful manufacture, distribution, dispensing, possession or use of controlled substances by board employees and agents while on duty or while in any workplace controlled by the board. For purposes of this proscription, the workplace shall include premises and vehicles owned and controlled by the board and other premises and vehicles when used by the board for education, research, service or other official functions.

Any person violating this proscription shall be subject to appropriate disciplinary action, which may include termination of employment.

Each person employed by the board of regents to render services under a federal grant or pursuant to a federal contract will, as a condition of that employment, agree (1) to abide by the terms of this policy and (2) to notify the institutional president or superintendent of any criminal drug statute conviction for a violation occurring in the workplace, that notice being submitted no later than five days after such conviction.

- A. The president or superintendent shall have primary responsibility for the implementation of the foregoing policy. Presidents and superintendents may delegate that responsibility to the extent that such delegation is usual and customary.
- B. Each board employee who is assigned to perform services under a federal grant or pursuant to a federal contract shall be given a copy of the board's drug-free workplace policy.
- C. Whenever an institution under the board of regents receives actual notice that an employee

rendering services under a federal grant or contract has been convicted of a criminal drug statute violation that occurred in the workplace, the president or his designee shall notify the appropriate federal agency within ten days after receipt of such notice.

- D. Within 30 days of receipt of the notice specified in paragraph (c), an institution shall (1) take appropriate personnel action against the employee, up to and including termination, and (2), in the event that the personnel action stops short of termination, require such employee, at his or her own expense, to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by an appropriate agency.

Compliance with the Drug-Free Schools and Communities Act Amendments of 1989

The South Dakota Board of Regents strictly prohibits the unlawful possession, use or distribution of alcohol, marijuana or controlled substances by its students or employees while property controlled by the Board or while participating in any capacity in activities or employments sponsored by it.

No possession, use or distribution of alcohol, marijuana or controlled substances is permitted on premises controlled by the Board of Regents, except:

- when needed in conjunction with approved research activities;
- when alcohol is possessed, used or distributed in a lawful manner inside a dwelling occupied by an employee who, as a condition of employment, is required to maintain a residence on premises controlled by the Board of Regents;
- when alcohol is possessed, used or distributed in a lawful manner on premises controlled by the Board of Regents which have been designated by the institutional president as places where such possession, use and distribution may be permitted, subject to such conditions as the institutional president may also prescribe, provided that a notice of such designation and conditions have been filed previously with the executive director; or
- when the possession, use or distribution of the controlled substance is incidental treatment by a licensed health care professional authorized to prescribe such substances.

Article 10.3 of the policy manual sets forth additional policies governing student possession, use or distribution of alcohol, marijuana or controlled substances. Sections 8.1.12, 5.4.3(F), and 15.1.1 set forth additional policies governing employee possession, use or distribution of alcohol, marijuana or controlled substances.

Upon compliance with all procedural components of this and related articles, the presidents and superintendents may execute any certifications of compliance required under the Federal Drug Free Schools and Communities Act Amendments of 1989.

- A. Persons who violate the provisions of Section 15.1.2 will be disciplined.

1. Each campus shall adopt and publish detailed procedures and regulations to govern student infractions of this policy and related policies. Minimum Regental standards may be found in Article 10.3.
 2. Disciplinary procedures for employees vary according to the individual's status as a Career Service Act employee, as a non-faculty employee who is exempt from the Career Service Act, as a faculty member who is excluded from the bargaining unit, or as a faculty member who is within the bargaining unit. Disciplinary measures shall be imposed pursuant to those procedures that are appropriate to the employee's classification.
 3. Employees whose unlawful possession, use or distribution of alcohol, marijuana or controlled substances violates this policy may be subject to those disciplinary measures set out in section 5.4.2(B); except that absent extraordinary circumstances, a second infraction will be deemed just cause for termination.
 4. Where the infraction of section 15.1.2 constitutes a felony offense under South Dakota or federal law, the essential facts of the infraction will be referred to law enforcement authorities. Referral of a matter to law enforcement authorities will not require suspension of disciplinary proceedings nor delay imposition of discipline.
- B. Institutions may elect to use student fee collections to fund drug or alcohol assessment, counseling, treatment, rehabilitation or re-entry programs for students. employee entitlements to drug or alcohol assessment counseling, treatment, rehabilitation or re-entry programs are governed by Bureau of Personnel Regulations issued under the authority of SDCL Sections 3-6-10.1, 3-12A-2 and 3-12A-33. Current information about such entitlements may be obtained from personnel officers.
- C. Each institution will prepare and will distribute annually to all higher education students, parents of students attending the special schools and employees written statements that set forth in detail the following:
1. Institutional and Regental policies that regulate the possession, use or distribution of alcohol, marijuana or controlled substances, together with the relevant disciplinary procedures and sanctions;
 2. Legal sanctions under local, state or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
 3. Health risks associated with the use of alcohol, marijuana or controlled substances; and
 4. Any available programs for alcohol, marijuana or controlled substances counseling,

treatment, rehabilitation or re-entry.

5. The special schools shall also:
 - a. Maintain age-appropriate, developmentally based drug and alcohol education and prevention programs for students in all grades;
 - b. Assure that the drug and alcohol education and prevention programs address the legal, social and health consequences of drug and alcohol use, provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol and convey to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful;
 - c. Provide students with a copy of the standards of conduct required under section 1 above; and
 - d. Notify parents and students that compliance with the standards of conduct required under section 1 above is mandatory.

- D. At the June, 1992 meeting of the Board, and biennially thereafter, each institution will report:
 1. evidence about the degree to which its alcohol, marijuana and controlled substances programs have been effective in reducing academic, social and employment problems associated with the use of such substances;
 2. any changes in institutional or Regental policies that might enhance program effectiveness; and
 3. data showing what disciplinary measures were imposed on students or employees pursuant to the foregoing policies.
 - a. The data provided in response to 15.1.2(D)(3) should contain sufficient detail to demonstrate that sanctions were imposed consistently and equitably among those students and employees who became subject to discipline.

- E. Whenever an officially recognized organization is permitted under institutional policy to conduct a social function at which alcohol will be provided, it must adhere to the following guidelines:
 1. If the function includes the sale of alcoholic beverages, appropriate permits must be obtained.
 2. The organization sponsoring the event should implement precautionary measures to

ensure that alcoholic beverages are not accessible or served to persons under the legal drinking age or to persons who appear intoxicated.

3. Persons of legal age must be designated as servers. They must be trained to monitor alcohol consumption, and they alone may have direct access to alcoholic beverages.
4. Attractive nonalcoholic beverages must be equally available and on display.
5. The consumption of alcoholic beverages must be limited to the area designated for the event.
6. A reasonable portion of the budget for the event must be designated for the purchase of food items, and food must be available throughout the event.

Officially recognized student organizations remain subject to the additional restrictions set forth in section 10.3.2, which prohibits expenditure of organizational funds for alcoholic beverages.

7. Alcohol service must be discontinued well before the event is expected to end.
8. Alcohol use should never be the primary focus of the event. Drinking contests and other activities that encourage consumption of alcohol are strictly prohibited.
9. Advertising may not mention the availability of alcohol in a prominent way, nor may advertising mention the amount of alcoholic beverages available. If mention is made, equal attention must be given to the availability of nonalcoholic beverages.
10. Officially recognized organizations will have the responsibility to provide those persons conducting the event with copies of these regulations. They will also be responsible for implementing these regulations.
11. Officially recognized organizations must agree to abide by the foregoing regulations as a condition of continued recognition.

SOURCE: Current Policy Manual 8.1.12; 15.1.1; 15.1.2