

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 10 – J

DATE: June 28-30, 2016

SUBJECT: BOR Policy 4:27 – Drug Free Environment (1st Reading)

In Agenda Item 10-I, The Board of Regents considered the second reading of new BOR Policy 6:14. Once new BOR Policy 6:14 is approved, BOR Policy 4:27 will need to be revised to allow alcohol to be possessed, used, or distributed in compliance with BOR Policy 6:14. The substantive revision is the addition of another exception to the prohibition of alcohol on premises controlled by the Board provided in, as stated below:

When alcohol is possessed, used, or distributed in a manner that is expressly approved by a Board Policy.

This addition is being made to the section of the policy that addresses compliance with the Drug-Free Schools and Communities Act Amendments of 1989.

Additionally, some minor non-substantive clean-up of the language and references was made to BOR Policy 4:27.

Draft Motion 20160628_10-J: I move approval of the first reading of BOR Policy 4:27 as provided in Attachment I.

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 Board Policy 4:14~~ ~~subsection 2.(F)~~. It is the intent of the Board that all employees regardless of their faculty, exempt or civil 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~~ ~~prohibits~~ 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~~ Board. For purposes of this ~~proscription~~ prohibition, the workplace shall include premises and vehicles owned and controlled by the ~~board~~ Board and other premises and vehicles when used by the ~~board~~ Board for education, research, service or other official functions.

Any person violating this ~~proscription~~ prohibition 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 to ~~(i) to~~ abide by the terms of this policy and ~~(2ii) 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 ~~(5)~~ days after such conviction.

- A. The president or superintendent shall have primary responsibility for the implementation of ~~the foregoing~~ this policy. Presidents and superintendents may delegate that responsibility to the extent that such delegation is usual and customary.
- B. Each ~~board~~ 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~~ 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 (10) days after receipt of such notice.
- D. Within ~~thirty~~ (30) days of receipt of the notice specified in paragraph (c), an institution shall ~~(4i)~~ take appropriate personnel action against the employee, up to and including termination and ~~(2ii)~~ 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 inside a designated residence hall facility occupied exclusively by upper-division and/or non-traditional students who are at least 21 years of age;
- when alcohol is possessed, used, or distributed in a lawful manner on premises controlled by the Board ~~of Regents~~ ~~which~~ ~~that~~ 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; ~~and~~ 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; ~~or~~
- ~~when alcohol is possessed, used, or distributed in a manner that is expressly approved by a Board Policy.~~

~~BOR-Board policy~~ Policy 3.4 ~~sets forth additional policies governing~~ contains additional provisions regarding student possession, use, or distribution of alcohol, marijuana, or controlled substances.

Upon compliance with all procedural components of this and related ~~articles~~ provisions, 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 this policy 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 ~~BOR-Board~~ Policy 3.4, which policy is also the default policy in the absence of institution-specific policies governing student conduct.
 2. Disciplinary procedures for employees vary according to the individual's status as a Civil Service Act employee, as a non-faculty employee who is exempt from the Civil 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 ~~based on~~ 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~~ Board Policy 4.14, Board Policy 4.44, and ARSD 55:10:07:01; except that absent extraordinary circumstances, a second infraction will be deemed just cause for termination.
 4. Where the infraction 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 Human Resources ~~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 subsection C.1 above; and
 - d. Notify parents and students that compliance with the standards of conduct required under subsection C.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 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 in compliance with all of the requirements of Board Policy 6:14.

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-Board Policy~~ 3.4 ~~which-that~~ 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~~guidelines. They will also be responsible for implementing these ~~regulations~~guidelines.
11. Officially recognized organizations must agree to abide by the foregoing ~~regulations~~guidelines as a condition of continued recognition.

SOURCE: Current Policy Manual 8.1.12; 15.1.1; 15.1.2; BOR, August 2011.