



Ohio Administrative Code

Rule 3349-7-35 Mood-altering or consciousness altering substances (drug free workplace).

Effective: February 5, 2024

(A) Purpose

To provide a rule that will promote the health and safety of students, employees, and visitors, the university supports and will maintain a drug-free working, living and learning environment.

(B) Scope

This rule applies to all employees, students, volunteers and any individuals who conduct business for the university. This rule provides a minimum standard for engaging in employment or educational activities. University departments or contracts may impose stricter standards in certain circumstances. The prohibited use of alcohol stated in this rule does not apply to private events or private residences that are located on university premises.

(C) Definitions

(1) "Controlled substance" refers to substances or drugs classified Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. 812 (1970) which include, but are not limited to:

(a) Narcotics, such as opium, heroin, morphine and synthetic substitutes;

(b) Depressants, such as chloral hydrate, barbiturates, and methadone;

(c) Stimulants, such as cocaine (and any derivatives) and amphetamines;

(d) Hallucinogens, such as LSD, mescaline, PCP, peyote, psilocybin, Ecstasy, and MDMA;

(e) Cannabis, such as marijuana and hashish; and



(f) Any chemical compound added to federal or state regulations and denoted as a controlled substance or so governed 21 U.S. Code 813.

(2) "Criminal drug statute conviction" refers to situations when an employee is convicted of or pleads guilty to a violation of a drug statute as defined in the Revised Code.

(3) "Illegal drugs" refers to a substance whose use or possession is controlled by federal or state law but that is not being used or possessed under the supervision of a licensed health care professional.

(4) "Reasonable suspicion" refers to situations where a person believes, based on the combination of facts and circumstances available at the time, there is evidence suggesting the use or the influence of drugs or alcohol, or that their performance is impaired by drugs or alcohol while at work or in the educational setting.

(5) "Safety-sensitive job classifications" refers to a job in which the employee is responsible for his or her own or other people's safety. These positions currently include, but are not limited to, positions in public safety, environmental and occupational health and safety and campus operations.

(6) "University premises" refers to any building or land owned, leased, or used by the university.

(7) "University vehicle" refers to any vehicle owned, leased or operated by the university.

(D) Rule statement

(1) General prohibitions

(a) Employees may not engage in workplace activities and students may not participate in coursework or clinical work while under the influence of alcohol or cannabis, while unlawfully using controlled substances, or while using illegal drugs. The presence (at established testing levels) of any prohibited substance in the employee or students system while engaging in any workplace or curricular activity shall constitute a violation of this policy.

(b) The university prohibits the consumption of alcohol on university premises unless authorized on a



university event-specific basis, regardless of the legal drinking age. The university prohibits the possession or use of cannabis, in any form (e.g., smoking, vaping, consuming through edible products) by a person of any age, while on university premises.

(c) The university prohibits its employees and students from the unlawful use, misuse, possession, dispensation, distribution, or manufacture of any controlled substances or illegal drugs anywhere on university premises,

(i) As a recipient of federal funding, such as student financial aid and federal research grants, the university is required to follow federal law including the Safe and Drug Free Schools and Communities Act of 1989 and the Drug Free Workplace Act of 1988. In order to comply with these laws, the university prohibits the manufacture, dispensation, possession, use, or distribution of cannabis in any form on any university-owned property, in the conduct of university business or as part of any university activity even when the possession and use would be legal under the laws of the state of Ohio.

(ii) This prohibition does not extend to research related to marijuana that is approved or funded by a federal agency including but not limited to:

(a) The national institutes of health;

(b) The Drug enforcement administration; or

(c) The food and drug administration..

(iii) Employees or students who are legally authorized Ohio medical marijuana users may request to be released from their housing obligation with the village.

(2) Sanctions

(a) Any employee who violates any provision of this policy will be subject to disciplinary sanctions up to and including termination of employment based on the circumstances of the violation.

Additional sanctions or actions may include:



(i) Work restrictions;

(ii) Required participation in an evaluation by the employee assistance program or an external substance abuse professional;

(iii) Mandatory follow through with substance abuse education/rehabilitation program if recommended by the evaluating employee assistance program; or

(iv) Entering into a government-approved drug rehabilitation program.

(b) Any student who violates any provision of this policy will be referred to the committee on academic and professional progress (CAPP) in accordance with the procedures set forth in the NEOMED compass. Students will be subject to sanctions up to and including dismissal from the institution based on the circumstance of the violation.

(3) Employee and student responsibility to report convictions for alcohol or drug-related offenses

(a) Any employee who is convicted of a drug offense must report the conviction to his/her immediate administrative supervisor and human resources within five days of such conviction.

Employees in "safety-sensitive" positions at the university, or those who drive a university leased or owned vehicle, must report any alcohol-related convictions to his/her immediate administrative supervisor and human resources within five days of such conviction.

(b) Any student who is convicted of a drug or alcohol related offense must report such conviction to the senior executive director, academic affairs and student services with five days of such conviction.

(c) The failure to report any drug or alcohol related conviction covered under this policy within five days may subject the employee or student to additional sanctions.

(d) The university shall make notification to any granting agencies within ten days of such report, as required.



(e) Within thirty days of notification of a drug or alcohol conviction, the immediate supervisor, in consultation with the director of human resources, will take appropriate action with the employee and administer any sanctions.

(4) Drug or alcohol testing

All federal, state or local regulations regarding drug testing and monitoring will be followed. All information pertaining to an individual's drug tests or results will be kept as confidential, with only individuals who have a need-to-know being provided information or as required by law. All testing conducted under this rule will be done in accordance with standards established by the university department of human resources in conjunction with the offices student affairs and environmental and occupational health and safety. Drug or alcohol testing can occur in any of the following situations:

(a) For employees

(i) Post-offer / pre-employment testing. All applicants in safety-sensitive job classifications will be drug tested after receiving a final offer of employment and prior to beginning work. Applicants will be notified at the time of application that drug testing is required for the position. Offers of employment are contingent upon successfully passing a drug test.

Safety-sensitive job classifications shall include, but are not limited to, positions in public safety, environmental and occupational health and safety and campus operations.

(ii) Testing for reasonable suspicion for employees. Drug and/or alcohol testing may be conducted if there is reasonable suspicion of working under the influence of alcohol or drugs, or that the employee's performance of their duties is impaired by drugs or alcohol. Testing will be based upon objective observations or circumstances including but not limited to, aroma of alcohol on breath, directly observing use of drugs or alcohol, erratic/strange behavior in the workplace, self-disclosure of selling/taking illicit drugs/alcohol, diversion of medications or upon verification of a drug or alcohol related conviction.

(iii) Reasonable suspicion testing may be requested by an immediate supervisor, department chair,



or other university administrator in accordance with the university reasonable suspicion procedures. The director of human resources should be notified as soon as possible of any suspected reasonable suspicion. If, in accordance with the reasonable suspicion procedures, confirmation is obtained, arrangements will be made for the employee to be drug and/or alcohol tested. Drug testing shall occur at an approved test site and be as proximate to the documentation of reasonable suspicion as possible.

- (a) An employee who tests positive for drugs or alcohol will be subject to sanctions.
 - (b) Refusal of a drug and/ or alcohol test may subject the employee to sanctions.
 - (c) Refusal to present for a drug/ alcohol related test within the allotted time shall constitute a refusal to test and may subject the employee to sanctions.
 - (d) Failure to cooperate with the test collection procedure shall constitute a refusal to test and may subject the employee to sanctions.
 - (e) Individuals who test positive will be referred to the university employee assistance program or a substance abuse professional if an external expert is used for evaluation. The evaluation will determine and recommend if substance abuse treatment or education is appropriate and/ or necessary.
 - (f) The director of human resources, in consultation with the chief institutional safety official, will review the recommendation and may determine that rehabilitation is a requirement for any current employee who has an alcohol or drug problem that affects job performance.
- (b) For students
- (i) In accordance with the student drug/toxicology screening rule.
 - (ii) Reasonable suspicion testing for students may be ordered by the senior executive director, academic affairs and student services if there is a reasonable suspicion of being in a class or a clinical setting while under the influence of alcohol or illegal drugs. All students with positive results will be referred for further action in accordance with university rules and the student code of



conduct.

(iii) Result of self-disclosure.

(5) Notification of university law enforcement

Any individual observed unlawfully manufacturing, distributing, dispensing, using, or possessing alcohol, cannabis or illegal drugs on university premises is to be reported immediately to the NEOMED police department.

(6) Education, resources and training

(a) The university will inform all employees and students of the drug free campus rule through either the employment website upon employment or the NEOMED compass, and annually through the annual security report.

(b) Human resources will provide access to reasonable suspicion and alcohol and drug abuse awareness training for all employees.

(c) Human resources will refer and provide appropriate support for employees after drug or alcohol testing and/or substance abuse treatment or education, facilitate arrangements for testing when there is reasonable suspicion, and consult with supervisors on return to work agreements for employees.

(d) Student services will refer and provide appropriate support for students after drug or alcohol testing and/or substance abuse treatment or education, facilitate arrangements for testing when there is reasonable suspicion, and consult with the student and any necessary university individuals to determine the students eligibility to return to the educational setting.

(7) Supervisor's responsibilities

(a) Supervisors with reasonable suspicion that a substance abuse problem may be resulting in unsatisfactory work performance should document the facts and circumstances that have occurred and review this information with their department chair or division head and the director of human



resources. This referral would be kept confidential. Workplace performance issues should be documented.

(b) Supervisors will take corrective personnel action as appropriate after consultation with the office of human resources.

(c) When there is a suspension of responsibilities directly related to drug or alcohol use, upon authorization to return to work, a return to work agreement should be written in consultation with the director of human resources, the supervisor and the chief institutional safety officer (if necessary).

(d) The supervisor shall provide appropriate supervision for employees in accordance with return to work agreements.