

3356-7-20 Drug-free environment.

- (A) Policy statement. Youngstown state university (“university”) is committed to creating a safe and healthy environment for its employees, students, and visitors. The university prohibits the unlawful manufacture, distribution, dispensation, possession, sale or use of illegal drugs, controlled substances, intoxicants, and alcohol by any student, employee, organization (including student organizations), volunteer or visitor on university premises, at any location where university business is being conducted, as part of any university activity, in a university vehicle, or in the workplace. Employees are prohibited from working and from operating any university vehicle or equipment while under the influence of alcohol or non-prescribed controlled substances. Employees using prescribed or over-the-counter medication are prohibited from operating university vehicles or equipment at any time when their ability to do so might be impaired by the medication. No passenger in a university vehicle may consume alcoholic beverages or use non-prescribed controlled substances while in the vehicle
- (B) Purpose. This policy is designed to create and maintain an environment which sustains the general health and well-being of students, employees, and visitors and to comply with the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989. The authorized use of alcohol on university premises is governed by university policy 3356-5-10, “Alcoholic beverages on campus.”
- (C) Scope. This policy applies to all students, interns, faculty, employees (including student employees), volunteers, university visitors, third parties, (unless otherwise noted) and any individual or organization using university premises or engaged in a university activity or program whether on or off campus.
- (1) As a recipient of federal funding, such as student financial aid and federal grants and contracts for research, the university is required to follow federal law, including the Controlled Substances Act (“CSA”) (21 U.S.C. 13). The CSA prohibits the manufacture, dispensation, possession, use, or distribution of marijuana in any form on any university-owned property, in the conduct of university business, or as part of any university activity.

On September 8, 2016, Ohio law allowed certain activities related to the possession and use of medical marijuana. However, using and

possessing marijuana, including medically prescribed marijuana, continues to be prohibited by and a violation of the CSA and university policy. This prohibition applies even when the possession and use would be legal under the laws of Ohio. As a result, those with medical marijuana prescriptions/cards are not permitted to use medical marijuana on campus, in the conduct of university business, or as part of any university activity. Sanctions for students and employees who are found to be in possession of or using marijuana include suspension, expulsion and/or termination of employment.

- (2) This prohibition does not extend to research related to marijuana that is approved by:
- (a) The agency for health care research and quality;
 - (b) The national institutes of health;
 - (c) The national academy of sciences;
 - (d) The centers for medicare and Medicaid services;
 - (e) The United States department of defense;
 - (f) The centers for disease control and prevention;
 - (g) The United States department of veterans affairs;
 - (h) The drug enforcement administration;
 - (i) The food and drug administration; and
 - (j) Any board recognized by the national institutes of health for the purpose of evaluating the medical value of healthcare services.
- (3) Students who are legally authorized Ohio medical marijuana users and are living in university-owned or managed housing, may submit a letter with supporting documentation to the associate vice president for student experience asking to be released from their university housing and dining obligations.

(4) Students who are legally authorized Ohio medical marijuana users and are living in university-owned or managed housing, may not possess or use marijuana in these facilities. Any questions regarding medical marijuana and on-campus living may be directed to the associate vice president for student experience in Kilcawley center, room 2071 or email ejhoward01@ysu.edu.

(D) Definitions.

- (1) “University premise.” Any building or land (including parking lots) owned, leased or used by the university including any site at which an employee is to perform work for the University.
- (2) “University vehicle or equipment.” Any vehicle or equipment owned, leased, or operated by the university.
- (3) “Controlled substances.” Include and are not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and any chemical compound added to federal or state regulations and denoted as a controlled substance.
- (4) “Illegal drugs.” A substance whose use or possession is controlled by federal or state law but is not being used or possessed under the supervision of a licensed health care professional.
- (5) “Intoxicant.” Any substance which can induce a condition of diminished mental and/or physical ability, excitement, irrational behavior or other physiological effects.
- (6) “Random testing.” Drug or alcohol testing that is conducted on employees chosen by random selection.
- (7) “Reasonable suspicion testing.” Testing based on specific, objective observations concerning the appearance, behavior, speech, or body odors of an employee including but not limited to slurred speech; dilated or pinpoint pupils; drowsiness or sleepiness; unusual or rapid changes in mood; unexplained work errors; impaired manual dexterity, coordination, or ability to reason; diversion of medications or upon verification of a drug or alcohol-related conviction; and self-disclosure of selling or taking drugs or alcohol.

- (8) “Refusal to consent.” Obstructing the collection or testing process; submitting an altered, adulterated, or substitute sample; failing to appear for a scheduled test; refusing to complete the requested testing forms; failing to promptly provide specimen(s) for testing when directed to do so and without a valid medical basis for the failure.

(E) Guidelines.

- (1) All faculty, staff, volunteers, and student employees are required to report known or suspected violations of this policy to their supervisor, manager, or an appropriate administrator.
- (2) This policy is subject to all applicable collective bargaining agreements and state law; however, no employee or bargaining unit may be exempted from application of this policy.
- (3) Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided by an employee or volunteer shall be kept confidential to the extent required by law and maintained in files separate from personnel files. Such records and information may only be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding.
- (4) Voluntary submission for treatment of substance abuse problems will not subject employees or volunteers to disciplinary action or sanctions; however, submission for treatment shall not serve as a substitute for disciplinary action or sanction under this or any other university policy.
- (5) Any employee, volunteer, or visitor who observes an individual unlawfully manufacturing, distributing, dispensing, using or possessing alcohol or possessing controlled substances on university premises shall be reported immediately to the university police. Off-site university programs or activities should contact campus police, security and/or local law enforcement.

(F) Procedures.

- (1) Consistent with this policy, the office of human resources shall:
 - (a) Develop procedures for the implementation and monitoring of drug and alcohol testing program which may include contracting with outside entities to provide testing services;
 - (b) Inform all employees of the drug-free environment policy upon employment and ensure that the policy is accessible to all employees on the human resources website;
 - (c) Provide access to training for supervisors and managers; and
 - (d) Provide information on resources available through the university's employee assistance program ("EAP").
- (2) Consistent with this policy, the office of student experience shall:
 - (a) Annually inform students of the university's drug-free environment policy;
 - (b) Provide alcohol and drug abuse awareness programming for students.
- (3) Drug/alcohol testing.
 - (a) Pre-employment testing. Applicants for specific safety-related and other designated positions at the university will be drug/alcohol tested after receiving a final offer of employment and prior to beginning work. Applicants will be notified at the time of application that testing for drugs is a requirement of the employment process. Offers of employment are contingent on successfully passing a drug/alcohol test.
 - (b) Random testing. Performed for safety-related and other designated positions as required by law and pursuant to individual agreements. Employees in this group are subject to random testing as a condition of continued employment.
 - (c) Ordered testing. With the approval of the office of human resources, departments or units within the university can establish testing standards that are more rigorous than outlined

in this policy (such testing is typically required by federal regulations, licensure boards, and other legal or regulatory entities).

- (d) Reasonable suspicion testing.
 - (i) Reasonable suspicion testing may be ordered by a supervisor, chair, or other university administration only in consultation with the office of human resources employee and labor relations officer.
 - (ii) If the supervisor or manager is unclear that testing is merited, they should consult with the office of human resources employee and labor relations officer.
 - (iii) Where reasonable suspicion exists, the employee or volunteer shall be immediately relieved of duty pending the outcome of the testing. After an employee is sent for testing, the employee should be placed on administrative leave until further actions are taken.
 - (iv) Failure of a manager or supervisor to receive training on this policy shall not invalidate otherwise proper reasonable suspicion testing.
 - (v) Individuals testing positive should be referred to the university employee assistance program (EAP) for evaluation. The evaluation will determine and recommend if substance abuse treatment or education is appropriate and/or necessary. Employee and labor relations will review the recommendation and may determine that treatment is a requirement for any current employee who has an alcohol or drug problem that affects job performance.
- (e) Post-rehabilitation testing. When an employee has had a confirmed positive test result or has been sent to a drug dependency program at the request of the university and will remain as a university employee, then as a condition of continued employment, the employee will be required to take

and pass a follow-up drug test or tests during a period of up to two years after the employee's return to work.

(G) Self-disclosure of conviction by employee.

- (1) Consistent with this policy and as required by the Drug Free Workplace Act of 1988, all employees, faculty, staff and volunteers are required to notify their immediate supervisor within five calendar days after any alcohol or drug-related conviction or finding of guilt, including a plea of nolo contendere occurring in the workplace. When a supervisor is so notified by an employee, the supervisor shall immediately notify the chief human resources officer.
- (2) Within thirty days of such notice, the university will take appropriate personnel action against the employee, which may include corrective action, random testing requirements, notification of an appropriate licensing authority, and required participation in a drug abuse assistance or rehabilitation program.
- (3) If the self-disclosure is from an employee engaged in the performance of work under a federal grant or contract the supervisor shall notify the associate vice president for research. The associate vice president for research shall notify the federal agency sponsoring the grant or contract within ten days after notification of the employee's conviction.

(H) Sanctions for violation or noncompliance.

- (1) A refusal to consent to testing shall be considered as a violation of this policy.
- (2) Corrective action may include discipline up to and including termination, required participation in an evaluation by EAP and/or follow-through with an education/treatment program. If an employee refuses to participate or does not satisfactorily complete a required education/treatment program, the employee may be subject to corrective action up to and including termination.
- (3) Students violating this policy will be subject to disciplinary action in accordance with "The Code of Student Rights, Responsibilities, and Conduct (The Code)." Sanctions may include warning, probation, suspension, expulsion, or referral for prosecution.

- (4) Employees violating this policy will be subject to disciplinary action in accordance with applicable collective bargaining agreements and/or other university policies and procedures. Sanctions may include warning, reprimand, suspension, removal or termination, or referral for prosecution. Employees violating this policy may also be required to participate in a drug or alcohol abuse assistance or rehabilitation program.
- (5) Employees, students, volunteers, and visitors who violate this policy may be prohibited from accessing university premises, services, programs or events (see university policy 3356-7-45, “Persona non grata”).

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Certification

01/10/2017

Date

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