

**UNIVERSITY of NORTH DAKOTA
FINANCE & OPERATIONS POLICY LIBRARY**

ALCOHOL and DRUGS

Section 6, Safety and Security
Policy 6.4, Alcohol and Drugs
Responsible Executive: VP Finance & Operations
Responsible Office: Policy Office
Issued: November 4, 2011 (interim approval)
July 17, 2013 (policy implementation)
Latest Review / Revision: January 25, 2017



POLICY STATEMENT

University of North Dakota (UND) prohibits the unlawful or unauthorized manufacture, distribution, dispensation, possession, use, or sale of alcoholic beverages, controlled substances, and illegal drugs. The impairment by alcohol or drugs of any student or employee while participating in an academic function, or of employees when reporting for work or engaging in work – during normal work hours or other times when required to be at work – is also prohibited. UND employees and students are required to abide by all federal and state laws, local ordinances, State Board of Higher Education policies, and other related requirements regarding the consumption or possession of alcoholic beverages, controlled substances, and illegal drugs.

REASON FOR POLICY

UND is responsible for maintaining alcohol and drug policies in compliance with federal and state laws including, but not limited, to the Jeanne Clery Act, the Drug Free Workplace Act, the Drug-Free Schools and Communities Act, and the North Dakota Century Code.

UND must adhere to State Board of Higher Education policies 615 and 918.

SCOPE OF POLICY

This policy applies to:

- | | |
|---------------------------------------|--------------------------------|
| ✓ President | ✓ Faculty |
| ✓ Vice Presidents | ✓ Staff |
| ✓ Deans, Directors & Department Heads | ✓ Students |
| ✓ Area Managers & Supervisors | ✓ Others: <u>Campus Guests</u> |

WEB SITE REFERENCES

This policy: <http://UND.edu/finance-operations/files/docs/6-4-alcohol-drugs.pdf>
Policy Office: <http://UND.edu/finance-operations/policy-office/index.cfm>
Vice President for Finance & Operations: <http://UND.edu/finance-operations/>

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DEFINITIONS

Academic Function	An action or activity related to a student's or employee's purpose or role at the University.
Alcohol or Alcoholic Beverages	Any liquid suitable for drinking by human beings, except prescription drugs or over-the-counter medications, which contains one-half of one percent or more of alcohol by volume.
Association of Residence Halls (ARH)	ARH is the elected representational body for all students living in the UND Residence Halls. ARH is not a recognized student organization but is held to the same procedural and operational standards as are other units of the University.
Clery Act	The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) is a federal law requiring all institutions of higher education, that participate in the federal student financial aid program, to disclose information about crime on their campuses and in the surrounding communities.
Controlled Substance	A drug, substance, or immediate precursor in schedules I through V as identified in NDCC Chapter 19-03.1 as amended; or a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of the Controlled Substances Act [21 U.S.C. 801 et seq., as amended]. The term does not include distilled spirits, wine, malt beverages, or tobacco.
DEA	Drug Enforcement Administration – Entity designed to enforce the controlled substances laws and regulations of the United States.
Drug	Substances recognized in NDCC Chapter 19-03.1 as amended or 20 USC sec. 321 et seq., as amended, as drugs in the official United States Pharmacopeia, National Formulary, or Homeopathic Pharmacopeia of the United States, or any supplement to any of them; substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and substances intended for use as a component of any article noted above. See also Controlled Substance.
EAP	Employee Assistance Program – Provides a variety of services, including alcohol and drug dependence services, to all benefited employees and their immediate family members (spouse and/or dependent children living in the same household as the employee or dependent children attending a college or university).
Employee	All full-time, part-time, temporary and/or non-benefited employees including but not limited to staff and faculty (e.g., professor, associate professor, assistant professor, instructor, tenured, non-tenured, etc.).
FERPA	Family Educational Rights and Privacy Act – Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.
Illegal Drug	A controlled substance as identified in the Controlled Substances Act [21 U.S.C. 801 et seq. as amended] but does not include a substance that is legally possessed or used under the supervision of a licensed healthcare professional, except medical marijuana, or that is legally possessed or used under any other authority under that Act or under any other provision of federal law. Medical marijuana permitted by NDCC 19-24 is still considered a controlled substance and is a violation of federal law.
Illegal Use of Drugs and	The use of drugs, the possession or distribution of which is unlawful under

Other Substances	the Controlled Substances Act [21 U.S.C. 801 et seq. as amended] and/or NDCC. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of federal or state law.
Impairment	Under the influence of alcohol and/or legal (including prescription medication) or illegal drugs, if such impairment or influence adversely affects the employee’s work performance, the safety of the employee or others, or creates an unnecessary risk for the University.
Medical Marijuana	Three ounces or less of usable marijuana (dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations) used to treat or alleviate a registered patient’s debilitating medical condition or symptoms associated with the registered patient’s debilitating medical condition.
NDCC	North Dakota Century Code – Codification of the latest versions of state law as of the date of their enactment.
NIDA	National Institute on Drug Abuse
Prescription Drug	A drug as defined in the Federal Food, Drug, and Cosmetic Act and under which definition its label is required to bear the statement, “Caution: Federal law prohibits dispensing without prescription” or “Rx Only.”
Recognized Student Organizations	Student groups that have received constitutional approval from Student Policy Committee and have open membership, in keeping with the UND Equal Opportunity Policy. These groups include national honorary organizations, fraternities and sororities, and all other affiliated and non-affiliated organizations.
SBHE	State Board of Higher Education
Student Conduct Administrators	Individuals who determine, at an informal conference or student conduct hearing, whether a student or student organization has violated the <i>Code of Student Life</i> , and who impose sanctions when a violation is determined.
Student Government	Student Government is the representational elected body of the entire student population. Student Government is held to the same procedural and operational standards as are other units of the University.
Substance Abuse	The illegal use or abuse of drugs, including substances listed in schedules I through V of the Controlled Substances Act [21 U.S.C. 801 et seq. as amended]; the abuse of inhalants; or the use of alcohol, tobacco, or other related product as such use is prohibited by federal, state, or local law.
USC	United States Code – Codification by subject matter of the general and permanent laws of the United States.

RELATED INFORMATION

20 USC – Food and Drugs, Section 321 – Definitions; Generally	http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapII-sec321.pdf
21 USC – Food and Drugs, Section 1523 – Definitions	http://www.gpo.gov/fdsys/pkg/USCODE-2008-title21/pdf/USCODE-2008-title21-chap20-subchapII-sec1523.pdf
21 USC – Food and Drugs, Section 802 – Definitions	http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap13-subchapI-partA-sec802.pdf
42 USC – The Public Health and Welfare, Section 12111 –	http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap126-subchapI-sec12111.pdf

Definitions	
Americans with Disabilities Act (ADA)	http://www.dol.gov/dol/topic/disability/ada.htm
Clergy Act	http://clerycenter.org/summary-jeanne-clery-act
DEA Drug Fact Sheets	http://www.justice.gov/dea/druginfo/factsheets.shtml
DEA Federal Trafficking Penalties	http://www.justice.gov/dea/druginfo/ftp3.shtml
Drug-Free Workplace Act of 1988	http://www.dol.gov/elaws/asp/drugfree/require.htm
EAP	http://www.VillageEAP.com
Family Medical Leave Act (FMLA)	http://www.dol.gov/dol/topic/benefits-leave/fmla.htm
FERPA	http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html
Financial Aid Policy	Contact Student Financial Aid
Grand Forks City Code Section 9-0113 – Minor in Possession of or Consuming Alcoholic Beverages	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0113MIPOCOALBE
Grand Forks City Code Section 9-0114 – Minor Purchasing/Attempting to Purchase Alcoholic Beverages	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0114MIPUATPUALBE
Grand Forks City Code Section 9-0115 – Purchase or Procurement of Alcoholic Beverages for Minors Prohibited	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0115PUPRALBEMIPR
Grand Forks City Code Section 9-0116 – Furnishing Money for Purchase of Alcoholic Beverages for Minors	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0116FUMOPUALBEMI
Grand Forks City Code Section 9-0117 – Minor on Licensed Premises	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0117MILIPR
Grand Forks City Code Section 9-0118 – False Statement or Identification	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART1CROF_9-0118FASTID
Grand Forks City Code Section 9-0219 – Consumption of Alcoholic Beverages Prohibited on Public Streets or Alleys	https://www.municode.com/library/nd/grand_forks/codes/code_of_ordinances?nodeId=PTICICO_CHIXOFMIPR_ART2NOBRPEOR_9-0219COALBEPRPUSTAL
NDCC § 12.1-32-01. – Criminal Code, Penalties and Sentencing, Classification of Offenses - Penalties	http://www.legis.nd.gov/cencode/t12-1c32.pdf
NDCC 19-24 – North Dakota Compassionate Care Act	http://www.legis.nd.gov/cencode/t19c24.html
NDCC Chapter 19-03.1 – Uniform Controlled Substances Act	http://www.legis.nd.gov/cencode/t19c03-1.pdf
NDCC Chapter 19-03.4 – Drug Paraphernalia	www.legis.nd.gov/cencode/t19c03-4.pdf
NDCC Chapter 5-01 – Alcoholic	http://www.legis.nd.gov/cencode/t05c01.pdf

Beverages, General Provisions	
NDUS Human Resource Policy Manual 25 – Job Discipline/Dismissal	http://ndus.edu/makers/procedures/hr/?SID=44&PID=246&re=d
NDUS Procedure 615 – Drug-Free Workplace	http://ndus.edu/makers/procedures/ndus/default.asp?PID=305&SID=58
NIDA Commonly Abused Drugs	http://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs/commonly-abused-drugs-chart
NIDA Commonly Abused Prescription Drugs	http://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs/commonly-abused-prescription-drugs-chart
SBHE Policy 507 – Student Publications	http://ndus.edu/makers/procedures/sbhe/default.asp?PID=75&SID=6
SBHE Policy 608.2 – NDUS Employees - Non-renewal and Dismissals	http://ndus.edu/makers/procedures/sbhe/default.asp?PID=59&SID=7
SBHE Policy 615 – Drug-Free Workplace	http://ndus.edu/makers/procedures/sbhe/default.asp?PID=70&SID=7
SBHE Policy 918 – Alcoholic Beverages	http://ndus.edu/makers/procedures/sbhe/default.asp?PID=18&SID=10
UND Annual Security and Fire Safety Report	http://UND.edu/annual-security-report
UND Code of Student Life	http://UND.edu/code-of-student-life/

CONTACTS

Specific questions should be directed to the following:

Subject	Contact	Telephone/Fax	Office or Department E-Mail / Web Address
Policy Clarification	VPFO Policy Office	(701) 777-2121	http://UND.edu/finance-operations/policy-office/index.cfm
Alcohol Exception	Office of the President	(701) 777-2121	angelique.foster@UND.edu http://UND.edu/president/
Alcohol/Drug Counseling, Treatment & Referral (employees)	The Village	(800) 627-8220	www.VillageEAP.com
Alcohol/Drug Counseling, Treatment & Referral (students)	University Counseling Center	(701) 777-2127	http://UND.edu/student-life/counseling-center/
Alcohol/Drug Education, Information and Referral	Health & Wellness Promotion Team – Health & Wellness Hub	(701) 777-2097	http://UND.edu/hwhub
Alcohol/Drug Use in the Workplace	Human Resources	(701) 777-4361	UND.humanresources@UND.edu http://UND.edu/finance-operations/human-resources-payroll/

Complaints of Discrimination or Harassment	Affirmative Action Office	(701) 777-4171	http://UND.edu/affirmative-action/
Domestic / International Student Field Trips	UND Safety	(701) 777-3341	http://und.edu/public-safety/public-safety/risk-management.cfm
Employee Assistance Program (EAP)	The Village	(800) 627-8220	http://www.VillageEAP.com
Housing/Dining	Housing Office	(701) 777-4251	http://UND.edu/student-life/housing/
Study Abroad and Overseas Programs	Office of International Programs	(701) 777-4231	http://UND.edu/academics/international-center/index.cfm
Permission to Advertise Alcohol on Campus	Division of University & Public Affairs	(701) 777-2731	http://UND.edu/university-public-affairs/
Security/Law Enforcement	University Police Department	(701) 777-3491	http://UND.edu/public-safety/police.cfm
Student Discipline/ <i>Code of Student Life</i>	Office of Student Rights and Responsibilities	(701) 777-2664	http://UND.edu/student-affairs/student-rights-responsibilities/

PRINCIPLES

OVERVIEW – UND is concerned about the academic success of students and the safety of all members of the campus community and is committed to maintaining an academic and social environment conducive to the intellectual and personal development of students.

UND prohibits the unlawful or unauthorized manufacture, distribution, dispensation, possession, use, or sale of alcoholic beverages, controlled substances, and illegal drugs. This prohibition applies even if the North Dakota Department of Public Health has issued a certificate of registration permitting the individual to possess a limited amount of marijuana for medical purposes; those with medical marijuana cards are not permitted to use medical marijuana on campus. The impairment by alcohol or drugs of any student or employee while participating in an academic function, or of employees when reporting for work or engaging in work – during normal work hours or other times when required to be at work – is also prohibited. UND employees and students are required to abide by all federal and state laws, local ordinances, SBHE policies, and other related requirements regarding the consumption or possession of alcoholic beverages, controlled substances, and illegal drugs.

UND is responsible for maintaining alcohol and drug policies in compliance with federal and state laws including but not limited to the Clery Act, the Drug Free Workplace Act, and the Drug-Free Schools and Communities Act, and NDCC. UND must adhere to SBHE policies 918 and 615 and procedure 615.

Permission to serve alcoholic beverages in or on University property may be granted through specific authorization by the President of the University or as authorized in SBHE policy 918.

ALCOHOL- AND DRUG-FREE WORKPLACE STATEMENT – The University of North Dakota is committed to protecting the safety, health and well-being of all employees and other individuals in its workplace. UND recognizes that alcohol abuse and drug use pose a significant threat to its goals, and has established an alcohol- and drug-free workplace program that balances respect for individuals with the need to maintain an alcohol- and drug-free environment.

UND encourages employees to voluntarily seek help with drug and alcohol problems.

Covered Individuals

Any individual who conducts business for the institution, is applying for a job or is conducting business on UND's property is covered by its Alcohol and Drug policy. UND's policy applies to, but is not limited to students, employees, off-campus employees, contractors, volunteers, interns and job applicants.

Applicability

UND's Alcohol and Drug policy is intended to apply whenever anyone is representing or conducting business for the university. This includes all working hours, while on call, paid standby and while on university property.

Prohibited Behavior

It is a violation of UND's Alcohol and Drug policy to unlawfully manufacture, use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs, controlled substances or intoxicants, including medical marijuana. Moreover, it is a violation of policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action, which may include termination, will be taken if job performance deteriorates, a loss of license occurs (in a position where a license is required), and/or accidents occur.

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription, except medical marijuana. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., use sick leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

Notification of Convictions

Any employee convicted of violating a criminal alcohol or drug statute in the workplace, or one which affects his/her job responsibilities must inform his/her department chair or supervisor of such conviction (including pleas of guilty and nolo contendere) within five calendar days of the conviction occurring. Failure to inform the supervisor or department head will subject the individual to disciplinary action up to and including dismissal for the first offense. Under the Drug-Free Workplace Act of 1988 involving employees on federal grants or contracts, UND, through the Vice President for Research and Economic Development, is required to notify the appropriate federal contracting officer within 10 days of receiving notice of such a conviction.

Consequences

One of the goals of UND's alcohol- and drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If an individual violates the policy, the consequences can be serious even if the employee begins a treatment program.

In the case of applicants, if he or she violates the alcohol and drug policy, the offer of employment can be withdrawn.

Individuals suspected of violating either alcohol or drug policy may be referred to authorities for investigation. Conviction of either state or federal alcohol or drug statutes may subject a student or an employee to disciplinary action.

Assistance

UND recognizes that alcohol and drug abuse and addiction are treatable illnesses, and realizes early intervention and support improves the success of rehabilitation. To support its employees, UND:

1. Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem;
2. Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help;
3. Offers all benefited employees and their immediate family members assistance with alcohol and drug problems through the Employee Assistance Program (EAP); and

4. Allows the use of accrued paid leave while seeking treatment for alcohol and drug problems.

Treatment for substance use disorders (e.g., alcohol dependence, alcohol abuse, alcoholism, drug abuse, etc.) may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

Supervisors should refer students to UND Health and Wellness for information pertaining to alcohol and drug use/abuse assistance programs.

Confidentiality

All information received by the organization through the drug-free workplace program is confidential communication. NDCC section 44-04-18.1 provides: “Any record of a public employee’s medical treatment or use of an employee assistance program is not to become part of that employee’s personnel record and is confidential and may not be released without the written consent of the employee.”

Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive alcohol- and drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

Employees are not to report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or drugs.

In addition, employees are encouraged to:

1. Be concerned about working in a safe environment;
2. Not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or drugs;
3. Support fellow workers in seeking help;
4. Use the Employee Assistance Program; and
5. Report dangerous behavior to their supervisor.

It is the supervisor’s responsibility to:

1. Inform employees of the Alcohol and Drug policy;
2. Observe employee performance;
3. Investigate reports of dangerous practices;
4. Document negative changes and problems in performance;
5. Counsel employees as to expected performance improvement;
6. Refer benefited employees to the Employee Assistance Program;
7. Suggest non-benefited employees seek help through a community assistance program; and
8. Clearly state consequences of policy violations.

Communication

Communicating UND’s Alcohol and Drug policy to all individuals is critical to its success. To ensure all employees are aware of their role in supporting UND’s alcohol- and drug-free workplace, all employees will receive a summary of the Alcohol and Drug policy and a Web link to access the complete policy document during the annual notification of policies.

Various University departments are responsible for developing marketing, communications, advertising, and educational campaigns designed to promote the responsible use of alcohol.

UND will make all good faith efforts to have and to maintain an alcohol- and drug-free workplace.

PROCEDURES

Alcohol Exception

Per State Board of Higher Education (SBHE) policy 918, the possession, sale, service, use, or consumption of alcoholic beverages upon land or in buildings at institutions under control of the SBHE is prohibited. However, SBHE 918 gives the president authority to approve exceptions to this policy. All exceptions are subject to applicable state and local laws and ordinances.

For more information, contact the Office of the President or the vice president whom oversees the department requesting the exception.

SINGLE EVENT EXCEPTION – These exceptions are applicable for single events, in a specific location and on a specific date as identified on the Alcohol Exception form.

To seek an exception, entities must complete an online Alcohol Exception form and submit it to the vice president for their area at least three weeks prior to the event. Exceptions are considered if UND students are not the primary event audience.

Upon receipt of an exception request:

1. The vice president reviews the information and either denies or endorses it.
 - a. If denied, the request with statement of denial is sent to the entity making the request.
 - b. If endorsed, the request with the statement of endorsement is sent to the president for final approval.

2. The president reviews the request and either denies or approves it.
 - a. If denied, the request with statement of denial is sent to the entity making the request along with a copy to the vice president who endorsed it.
 - b. If endorsed, the request with the statement of endorsement is sent to entity making the request along with a copy to the vice president who endorsed it.

Departments not reporting through a vice president and non-UND sponsored events may submit an exception request directly to the Office of the President. However, any UND or non-UND sponsored event held on-campus where UND students may be the primary audience must receive endorsement from the Vice President for Student Affairs rather than the Office of the President.

ANNUAL EXCEPTION BY LOCATION – Venues seeking an annual exception must submit a request directly to the Office of the President. These venues include, but are not limited to, the North Dakota Museum of Art and the Gorecki Alumni Center. The exception may be for a single event or for several events occurring periodically at a designated place during a given fiscal year. These venues will direct entities to complete the above-mentioned forms if activities have the potential for students to be the primary audience. These entities must receive endorsement from the Vice President for Student Affairs rather than the Office of the President prior to allowing the venue to serve alcohol at the entity's function(s).

Alcohol Advertising Permission

The advertising and/or promotion of alcohol on campus may be permitted by UND, pursuant to a statement of permission signed by the Vice President for University and Public Affairs or designee.

Entities wishing to use businesses whose primary product or services relates to liquor, or whose business requires patrons to be 21 years of age or older to enter as a listed sponsor, advertiser, etc. in on-campus materials must petition the Vice President for University and Public Affairs. The petition must describe the nature of the advertising, and the date(s) and place(s) where the advertising of alcoholic beverages will take place. Furthermore, decision-making on the approval or denial of alcohol advertising will be based on student participation. The Office of University and Public Affairs will craft guidelines that will address alcohol advertising at events where students may be in attendance.

Permission may be granted for a single advertising occurrence or for advertising occurring periodically during a period of not more than one year.

Recognized student organizations, the UND Student Government and the Association of Residence Halls will not be permitted to advertise and/or promote alcohol. The *Dakota Student*, a student publication subject to SBHE policy 507 regarding student publications, is exempt from the UND alcohol advertising and/or promotion policy.

Lease agreements between UND and entities leasing UND land and/or property should be reviewed at the time of initial agreement or at the time of renewal to include verbiage restricting the advertising and/or promotion of alcohol on campus by lessees.

For more information or to request permission to advertise alcohol on campus, contact the Office of University and Public Affairs.

Student Use of Alcohol and Drugs

STUDENT ALCOHOL and DRUG POLICY – UND prohibits the unlawful or unauthorized manufacture, distribution, dispensation, possession, use, or sale of alcoholic beverages, controlled substances, and illegal drugs, including medical marijuana. The impairment by alcohol or drugs of any student while participating in an academic function, or as an employee when reporting for work or engaging in work – during normal work hours or other times when required to be at work – is also prohibited. UND students are required to abide by all federal and state laws, local ordinances, State Board of Higher Education policies, and other related requirements regarding the consumption or possession of alcoholic beverages, controlled substances, and illegal drugs.

MARIJUANA USE – Use or possession of marijuana, including medical marijuana used or possessed under Chapter 19-24 of the North Dakota Century Code is strictly prohibited on campus. Any such use or possession is a violation of the *Code of Student Life*.

ALCOHOL-FREE OPPORTUNITIES – Students are encouraged to take advantage of alcohol-free programming on- and off-campus.

STUDENT HOUSING – The use and possession of illegal drugs or medical marijuana is prohibited in all university housing. Alcohol and alcohol containers are not allowed in any of the University's residence halls or University Place. University Apartment residents and their guests who choose to consume alcohol must be twenty-one or older and must act responsibly while doing so.

DOMESTIC and INTERNATIONAL FIELD TRIPS / STUDY ABROAD / OVERSEAS PROGRAMS – Students participating in domestic field trips or academic programs, or visiting foreign countries to attend field trips or academic programs abroad are reminded that they may be subject to arrest and legal sanctions for alcohol or drug offenses under the laws and regulations of that particular state, country or institution in addition to the sanctions described in the *Code of Student Life* and those adopted by the Office of International Programs.

ON-CAMPUS EMPLOYMENT – Students employed on-campus are considered University employees while working and should reference the Employee Use of Alcohol and Drugs section for additional information.

ALCOHOL USE/ABUSE EDUCATION – The University educates students about potentially life-threatening consequences of alcohol use/abuse, and calls on student leaders, administration, faculty, and staff to serve as role models and promote good decision making regarding the risks and consequences surrounding alcohol use/abuse.

UND programs such as the Health & Wellness Promotion Team Program and the University Counseling Center (UCC) Student Chemical Assessment and Review Program are intended to increase awareness of issues related to substance abuse and other issues impacting the health, well-being and academic success of students.

The UCC functions to assist students by anticipating and intervening in situations where substance use/abuse may negatively influence student performance in the University and surrounding community. Individual and group counseling, alcohol use assessment, referral for further evaluation and treatment, and educational programming are important components of this service.

Students who are concerned about their own alcohol use and/or about that of others are encouraged to contact UCC. When appropriate, students may be referred to off-campus medical providers.

MEDICAL AMNESTY ACT and OVERDOSE PREVENTION AND IMMUNITY – The safety of health of students is a primary concern at the University of North Dakota. As such, any student can seek assistance from the University Police for themselves or others who are intoxicated or drug-impaired.

NDCC section 5-01-08(6) provides that an individual, under the age of 21, is immune from criminal prosecution if that individual:

1. Contacts law enforcement or emergency medical services to report another individual under the age of 21 in need of medical assistance due to alcohol consumption, provides assistance to that individual until assistance arrives, and remains on the scene; or
2. Is in need of medical assistance and cooperates with medical assistance and law enforcement personnel on the scene.

It further provides that the maximum number of individuals who may be immune for any one occurrence is five.

NDCC chapter 19-03.1 provides that an individual is immune from criminal prosecution if that individual

1. Contacts law enforcement or emergency medical services and reports that the individual was or that another individual was in need of emergency medical assistance due to a drug overdose, and
2. The overdosed individual must have been in need of emergency medical services.

It further provides that the maximum number of individuals who may be immune for any one occurrence is three.

Individuals contacting law enforcement or emergency medical services in either situation must cooperate with medical assistance and law enforcement personnel on the scene. If they do not, their protection under these laws is jeopardized.

While neither the student who is impaired or the student(s) assisting the impaired student are exempt from facing disciplinary action under the *Code of Student Life*, all efforts made by students to positively impact the health and safety of others will be taken into consideration and may lessen possible disciplinary outcomes.

The amnesty does not apply to other prohibited conduct, including but not limited to, assault, violence, property damage, or the distribution of dangerous substances, whether legal or illegal.

DRUG USE/ABUSE EDUCATION – The University educates students about potentially life-threatening consequences of drug or alcohol use/abuse, and calls on student leaders, administration, faculty, and staff to serve as role models and promote good decision making regarding the risks and consequences surrounding drug or alcohol use/abuse.

UND programs such as the Health & Wellness Promotion Team Program and the University Counseling Center (UCC) Student Chemical Assessment and Review Program are intended to increase awareness of issues related to substance abuse and other issues impacting the health, well-being and academic success of students.

The UCC functions to assist students by anticipating and intervening in situations where substance use/abuse may negatively influence student performance in the University, community and environment. Individual and group counseling, drug use assessment, referral for further evaluation and treatment, and educational programming are important components of this service.

Students who are concerned about their own drug or alcohol use and/or about that of others are encouraged to contact UCC. When appropriate, students may be referred to private counselors.

DISCIPLINARY ACTIONS – The University responds to reports of the illegal use of substances through its discipline system.

Students in violation of UND’s Alcohol and Drug policy will face disciplinary actions as noted in the *Code of Student Life*. The *Code of Student Life* applies to conduct that occurs on University premises and University-sponsored activities, and to off-campus conduct that adversely affects the University Community and/or the pursuit of its objectives. Additionally, University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both criminal law and the *Code of Student Life* (that is, if both possible violations result from the same factual situation).

PARENTAL NOTIFICATION – In accordance with a 1998 amendment to FERPA, UND school officials have the discretion to notify parents or guardians of students who, at the time of disclosure, are under the age of 21, and have violated any federal, state, or local laws, or violated any rule or policy of the institution governing the use or possession of alcohol or controlled substance. Attempt at parental notification will be made:

1. After the finding of a second alcohol offense and any subsequent alcohol offense; or after the finding of a first alcohol offense if the violation is more serious, such as but not limited to, driving under the influence of alcohol or in conjunction with another violation, especially one involving violence or property damage;
2. For any drug offense; or
3. During a medical emergency involving a student.

Exceptions to parental notification may be made based on circumstance as determined by school officials with legitimate educational interest.

RECOGNIZED STUDENT ORGANIZATIONS – Recognized student organizations are those groups that have completed the process for becoming a recognized student organization and have open membership, in keeping with the UND Equal Opportunity Policy. These groups include national honorary organizations, fraternities and sororities, and all other affiliated and non-affiliated organizations. “Fraternities” and “sororities” refer to chapters of national Greek organizations which have received approval for inclusion in the fraternal system at UND from the Interfraternity Council or Panhellenic Council at UND.

UND Student Government is the representational body of the entire student population and the Association of Residence Halls (ARH) is the representational body for all students living in UND Residence Halls. However, Student Government and ARH and its standing committees are held to the same procedural and operational standards as are other units of the University.

Recognized student organizations and the UND Student Government are required to abide by local ordinances and state law, as well as SBHE and University policies/procedures regarding the consumption or possession of alcoholic beverages both on- and off-campus.

1. No University funds, including those raised by a recognized student organization, may be used either directly or indirectly for the purchase of alcoholic beverages.
2. Recognized student organizations may not sell alcoholic beverages.
3. If a recognized student organization is sponsoring an event involving alcoholic beverages, the student organization is responsible for verification of the ages of its guests and will be held responsible for ensuring that alcoholic beverages are legally dispensed.
4. At a recognized student organization sponsored event involving alcoholic beverages, the cost of alcoholic beverages may not be included in any admission, meal, or entertainment charge.

5. Recognized student organizations may not collect a cover charge, donation, or admission fee, which entitles a guest to alcoholic beverages.
6. Recognized student organizations may not utilize alcoholic beverages as contest prizes.
7. No goods or funds may be donated to recognized student organizations by makers, dealers, or purveyors of alcoholic beverages.
8. Recognized student organizations may not participate in any activity or promotion with an establishment whose primary business function is the selling of alcoholic beverages. The student organization may not enter into an agreement with said establishment as regards the sale or distribution of alcoholic beverages. This shall include, but is not limited to, any of the following arrangements:
 - a. The student organization sells or otherwise shares in the profit from sales of alcohol or serves as a co-sponsor of an event involving alcohol with an establishment whose primary business is the selling of alcoholic beverages.
 - b. The student organization advertises or distributes advertising for programs or activities sponsored by an establishment whose primary business function is the selling of alcoholic beverages.
 - c. The student organization receives free or discounted room rental rates, or other goods or services, in exchange for holding an event with alcohol, or meeting a bar receipt minimum.

Employee Use of Alcohol and Drugs

EMPLOYEE ALCOHOL and DRUG POLICY – UND prohibits the unlawful or unauthorized manufacture, distribution, dispensation, possession, use, or sale of alcoholic beverages, controlled substances, and illegal drugs, including medical marijuana. The impairment by alcohol or drugs of any employee while participating in an academic function, or of employees when reporting for work or engaging in work – during normal work hours or other times when required to be at work – is also prohibited. UND employees are required to abide by all federal and state laws, local ordinances, SBHE policies, and other related requirements regarding the consumption or possession of alcoholic beverages, controlled substances, and illegal drugs.

All employees are expected and required to report to work in an appropriate condition to carry out their responsibilities. In particular:

1. While performing work for the University, operating any University vehicle, or conducting University business, faculty and staff are prohibited from using, being under the influence of, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia and medical marijuana). Any illegal drugs or drug paraphernalia found on University property will be turned over to University Police and may result in criminal prosecution.
2. Employees are prohibited from being impaired or under the influence of alcohol and/or legal drugs, including prescription medication, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or others, or creates an unnecessary risk for the University. If taking necessary medication could compromise workplace safety or affect work performance, the employee is responsible for communicating with his/her supervisor to evaluate temporary job modification/re-assignment during the course of the treatment.
3. Any employee who is convicted of unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or other criminal drug statute in the workplace, or receives a conviction that affects his/her job responsibilities is required to notify his/her department head no later than five working days after such conviction. Failure to notify the appropriate University official(s) of a drug-related conviction shall be grounds for disciplinary action up to and including dismissal.
4. UND employees are required to abide by all federal and state laws, local ordinances, SBHE policies, and other related requirements regarding the consumption or possession of alcoholic beverages, controlled substances, and illegal drugs, including medical marijuana.

Any employee violating this policy is subject to discipline up to and including termination. Employees in the workplace suspected of violating either alcohol or drug statutes may be referred to criminal authorities for prosecution and sanctions.

Together with UND's Alcohol and Drug policy, campus departments may have additional policies and procedures in place that employees must follow. These UND departments include, but are not limited to, Aerospace, Athletics and EERC. These department documents must be reviewed by General Counsel and approved by the President prior to implementation and enforcement.

SUSPICION OF ALCOHOL OR DRUG USE – An employee who suspects that a colleague or co-worker is impaired by alcohol or drug use on the job should contact his/her department head or supervisor immediately. An employee who suspects a supervisor or department head is impaired by alcohol or drug use should contact the next level of supervision or administration.

Behaviors which may suggest alcohol/drug abuse include (but are not limited to) the following:

1. Repeated accidents (on- or off-campus);
2. Repeated illness absences;
3. Chronic lateness or early departures;
4. Significantly diminished task performance (with no other explanation); and
5. Odor of alcohol, slurred speech, unsteady gait, disorientation, paranoia, hallucinations, and other physical signs of impaired function, not caused by a known medical condition.

For drug descriptions, methods of abuse, and various effects on the body and mind, review the Drug Enforcement Administration's Drug Fact Sheets in the Related Information section of this document.

If a department chair, supervisor, or administrator has been contacted or suspects that an individual is under the influence of drugs or alcohol, he/she should:

1. Assess the situation and call for assistance if necessary. If assistance is needed, notify the University Police Department if on campus, or the local police department, if not on campus;
2. Not touch the employee;
3. Document observations and other relevant information fully;
4. Prohibit the individual from continuing to work and from driving;
5. Not leave the impaired employee alone;
6. Handle information confidentially; and
7. Consult with Human Resources staff.

An Incident of Intoxication or Impairment

If an employee appears to be intoxicated or otherwise drug-impaired, a supervisor should not touch the employee, unless contact is necessary to protect him or herself. If safety concerns are present, the supervisor should contact University Police (or local police department for off-campus incidents) for assistance. If possible, the employee should not be left alone unless the supervisor feels threatened. Supervisors should not allow the employee to continue working or to drive him or herself home. The supervisor will ask the employee if they have been drinking alcohol or taking any drugs and document the employee's answer.

If the employee states that they have not been drinking alcohol or taking any drugs, the employee will be asked to submit to a blood and/or urine test to disprove the suspicions. If there has been a critical incident that jeopardizes the safety of any individual, the employee will be required to submit to a blood and/or urine test. The supervisor and a representative from Human Resources or other designated official will accompany the employee to an approved facility for testing. Upon completion of the testing, a copy of the results will be provided to the supervisor.

If a person admits to being under the influence of alcohol or drugs, alcohol/drug testing of the individual may not be necessary. If an employee refuses testing, the employee may be disciplined as if the testing had been positive. The supervisor will offer to contact a friend or relative of the employee to drive them home, or to

obtain transportation for the employee. If the employee refuses such assistance, the supervisor should call University Police and advise them that the employee, who is believed to be impaired, is leaving the workplace

Observations

In proving that an employee was under the influence, the supervisor's observations of the employee's behavior, not a test, are the key elements in the university's case. The supervisor must be able to testify, in detail, what he/she saw that indicated that the employee was under the influence. A supervisor that testifies that the employee "seemed intoxicated" merely states a conclusion which is unsupported by any factual evidence. The supervisor must be able to provide information about the employee's actions that lead to the conclusion that the employee was under the influence, such as "the employee was staggering and had slurred speech or had a strong odor of alcohol on his/her breath." When feasible, it may be helpful to have another supervisor observe the behavior.

Documentation

Documentation of the incident in which the employee exhibited drunken or drugged behavior is critical to protecting the credibility of the supervisor. If the employee challenges any disciplinary action taken, the supervisor may be called upon to testify months after the incident occurred. The supervisor can avoid having to recall the incident from memory if he/she writes down an account of the incident immediately after it occurs. Those notes should be copied. One copy should be given to the appropriate vice president and the other copy should be retained by the reporting supervisor.

Confidentiality

Supervisors should treat an employee's alcohol or drug problem confidentially. Only those management personnel who have a need to know about the incident should be informed. If only a few people know of an employee's alleged substance abuse, the employer is better able to defend against allegations that the information was handled indiscreetly and will avoid embarrassing the employee.

After the Incident

1. After the immediate "crisis" has been handled, consultation with Human Resources should occur.
2. The employee will be put immediately on paid administrative leave for a minimum of the remainder of their work day.
3. The supervisor will encourage a benefited employee to seek assistance from the Employee Assistance Program, or a personal health care provider for all other employees.
4. If the employee is found to be under the influence of alcohol or drugs he/she will be subject to disciplinary actions up to and including dismissal. Any employee suspected to be under the influence of alcohol or drugs who refuses to submit to a blood and/or urine test will be subject to disciplinary actions up to and including dismissal, as if the employee had tested positive.
5. Sick leave, vacation, or provisions of FMLA can be used by employees to seek supervised rehabilitation services through a licensed care provider.
6. If the employee is not found to be under the influence of alcohol or drugs he/she may still be subject to disciplinary action up to and including dismissal for any job performance issues that may have occurred.
7. The disciplinary process will follow NDUS Human Resource Policy 25.

SUBSTANCE ABUSE COUNSELING, TREATMENT, AND REFERRAL – The Employee Assistance Program (EAP) provides a variety of services, including alcohol and drug dependence services, to all benefited employees and their immediate family members (spouse and/or dependent children living in the same household as the employee or dependent children attending a college or university). The use of EAP services is confidential unless the employee signs to release information to specific people for a specific purpose. Release of information may be requested to support a disability accommodation request or leave of absence for Family Medical Leave Act or use of extended sick leave.

REPORTING REQUIREMENTS AND RECORDS RETENTION – A department chair or supervisor who has disciplined an employee for alcohol- or drug-related problems or who has knowledge of an alcohol- or drug-related conviction must notify the appropriate vice president in whose area the employee is employed. The following information will be retained: employee's name, department, date and type of offense, date and type of action taken, and any follow-up or aftercare required.

Supervisors or department heads who are notified of an employee's criminal alcohol and/or drug conviction will immediately inform Human Resources for staff, Academic Affairs for faculty, and the Dean's Office, School of Medicine and Health Sciences, for medical school academic staff and faculty. Notification to a federal contacting agency will be through the UND Grants Administration Office. The institution will take appropriate disciplinary action, up to and including termination, based on conviction within 30 days of notification. Other agencies may be notified if it is required under agency rules and procedures.

Disciplinary reports on staff shall be submitted to the department head, vice president, and Human Resources which shall be the official repository of these data. Disciplinary reports on faculty shall be placed in their official personnel file with copies to their dean, department head, vice president or staff equivalent. Referral data for evaluation, treatment, or aftercare that are non-disciplinary or contain medical information shall be retained by EAP.

OFF-CAMPUS ACTIVITIES / DOMESTIC OR INTERNATIONAL FIELD TRIPS / STUDY ABROAD / OVERSEAS PROGRAMS – Employees are expected to uphold the standard promulgated by this policy and to act in a way that demonstrates the principle of “freedom with responsibility” by behaving in a responsible manner around alcohol and illegal drugs.

UND strongly discourages faculty from hosting off-campus activities where alcohol is served, or providing alcohol or purchasing alcohol for students participating in domestic or international field trips or study abroad programs. Employees are not permitted to purchase alcohol using University or program funds.

Employees must maintain their ability to respond to and report critical incidents and are expected to be able to perform duties as assigned.

Employees accompanying students in foreign countries are reminded that they and their students may be subject to arrest and legal sanctions for drug and alcohol offenses under the laws and regulations of that particular country or institution in addition to the sanctions described in this policy.

Legal Sanctions

The state and city classification of offenses and the sanctions for violating specific alcohol or drug statutes are as follows.

Under NDCC section 5-01-08, Individuals Under Twenty-one Years of Age Prohibited from Using Alcoholic Beverages or Entering Licensed Premises – Penalty, violations are as follows:

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. A violation of this section is a class B misdemeanor. For a violation of subsection 2, the court also shall sentence a violator to alcohol and drug education.

Under NDCC section 5-01-08.1, Misrepresentation of Age – Penalty, any person who misrepresents or misstates that person’s age or the age of any other person or who misrepresents that person’s age through presentation of any document purporting to show that person to be of legal age to purchase alcoholic beverages is guilty of a class B misdemeanor.

Under NDCC section 5-01-09, Delivery to Certain Persons Unlawful, any individual knowingly delivering alcoholic beverages to an individual under twenty-one years of age, except as allowed under section 5-02-06, or to a habitual drunkard, an incompetent, or an obviously intoxicated individual is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.

Under Grand Forks City Code section 9-0113, Minor in Possession of or Consuming Alcoholic Beverages, violations are as follows:

1. It is unlawful for any person under the age of twenty-one years to consume alcoholic beverages as defined in NDCC section 5-01-01 except as part of a recognized religious service. The term “consume” in this section shall also include consumed, consuming, and consumption.
2. This offense shall be presumed to have occurred within the city limits if actual consumption occurs within the city or the individual having consumed alcoholic beverages is arrested within the city limits.
3. It is unlawful for any person under the age of twenty-one years to be in possession of alcoholic beverages as defined in NDCC section 5-01-01 except as otherwise permitted in Grand Forks City Code section 21-0228
4. For the purposes of this section, a person is not twenty-one years of age until 8 a.m. on that person’s twenty-first birthday.
5. This section does not apply to a person under the age of twenty-one years who purchases, attempts to purchase, or possesses alcoholic beverages while under the direct supervision of the police department, city health department, or city attorney’s office for training, education, research, or enforcement purposes.

Under Grand Forks City Code section 9-0114, Minor Purchasing/Attempting to Purchase Alcoholic Beverages, violations are as follows:

1. It is unlawful for any person under the age of twenty-one years to purchase or attempt to purchase alcoholic beverages as defined in NDCC section 5-01-01.
2. For the purposes of this section, a person is not twenty-one years of age until 8 a.m. on that person’s twenty-first birthday.
3. This section does not apply to a person under the age of twenty-one years who purchases, attempts to purchase, or possesses alcoholic beverages while under the direct supervision of the police department, city health department, or city attorney’s office for training, education, research, or enforcement purposes.

Under Grand Forks City Code section 9-0115, Purchase or Procurement of Alcoholic Beverages for Minors Prohibited, it is unlawful for any person to purchase or procure for any person under the age of twenty-one years any alcoholic beverage or to furnish or deliver such alcoholic beverage to any such person.

Under Grand Forks City Code section 9-0116, Furnishing Money for Purchase of Alcoholic Beverages for Minors, violations are as follows:

1. It is unlawful for any person under the age of twenty-one years to furnish money to any other person for the purpose of purchasing alcoholic beverages as defined in NDCC section 5-01-01 for any person under the age of twenty-one years.
2. For the purposes of this section, a person is not twenty-one years of age until 8 a.m. on that person’s twenty-first birthday.

3. This section does not apply to a person under the age of twenty-one years who purchases, attempts to purchase, or possesses alcoholic beverages while under the direct supervision of the police department, city health department, or city attorney's office for training, education, research, or enforcement purposes.

Under Grand Forks City Code section 9-0117, Minor on Licensed Premises, violations are as follows:

1. It is unlawful for any person under the age of twenty-one years to enter any licensed premises where alcoholic beverages as defined by NDCC section 5-01-01 are being sold or displayed except under the conditions permitted in section 21-0228 of the Grand Forks City Code.
2. For the purposes of this section, a person is not twenty-one years of age until 8 a.m. on that person's twenty-first birthday.
3. This section does not apply to a person under the age of twenty-one years who purchases, attempts to purchase, or possesses alcoholic beverages while under the direct supervision of the police department, city health department, or city attorney's office for training, education, research, or enforcement purposes.

Under Grand Forks City Code section 9-0118, False Statement or Identification, violations are as follows:

1. It is unlawful for any person under the age of twenty-one years to make any false statement or to furnish, present, or exhibit any false or fictitious registration card or other document or evidence for the purpose of gaining admission to any place where the person's presence is prohibited.
2. For the purposes of this section, a person is not twenty-one years of age until 8 a.m. on that person's twenty-first birthday.

Under Grand Forks City Code section 9-0219, Consumption of Alcoholic Beverages Prohibited on Public Streets or Alleys, it shall be unlawful for any person to consume any alcoholic beverages, or to serve, sell, or possess an open container which contains alcoholic beverages, upon any public right-of-way, street, alley, highway or public sidewalk within the city, except when such public right-of-way, street, alley, highway, or public sidewalk, or portion thereof, is included within an area for which the city council has granted authorization.

Under NDCC section 19-03.1-23, Prohibited Acts A – Mandatory Terms of Imprisonment and Fines - Unclassified Offenses – Penalties, violations are as follows:

1. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class A felony and must be sentenced:
 - i. For a second offense, to imprisonment for at least five years.
 - ii. For a third or subsequent offense, to imprisonment for twenty years.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony. Except for a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, any person found guilty under this subdivision must be sentenced:
 - i. For a second offense, to imprisonment for at least three years.
 - ii. For a third or subsequent offense, to imprisonment for ten years.
 - c. A substance classified in schedule IV, is guilty of a class C felony and must be sentenced:
 - i. For a second offense, to imprisonment for at least six months.
 - ii. For a third offense, to imprisonment for at least one year.
 - iii. For a fourth or subsequent offense, to imprisonment for five years.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony.
 - b. Any other counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
 - c. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
 - d. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
3. For second or subsequent offenders, in addition to any other penalty imposed under this section, a person who violates this chapter, except a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, is subject to, and the court shall impose, the following penalties to run consecutively to any other sentence imposed:
 - a. Any person, eighteen years of age or older, who violates this section by willfully manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school is subject to an eight-year term of imprisonment.
 - b. b. If the defendant was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the defendant must be sentenced to imprisonment for at least eight years. It is not a defense that the defendant did not know the age of a person protected under this subdivision.
4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony and must be sentenced:
 - a. For a second or subsequent offense, to imprisonment for at least five years.
 - b. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
5. A violation of this chapter or a law of another state or the federal government which is equivalent to an offense under this chapter committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsections 1, 3, and 4. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
 - a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
 - b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire. A person who violates this subsection is guilty of a class C felony.
7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real

property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony. Any person who violates this subsection regarding possession of one-half ounce [14.175 grams] to one ounce [28.35 grams] of marijuana is guilty of a class A misdemeanor. Any person, except a person operating a motor vehicle, who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana is guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A misdemeanor.

8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.
9. When a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter and has not been convicted of any other criminal offense. Once sealed, the court record may not be opened even by order of the court.

Under NDCC section 19-03.4-03, Unlawful Possession of Drug Paraphernalia – Penalty, a person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class A misdemeanor.

Under NDCC section 19-03.1-22.3, Ingesting a Controlled Substance – Venue for Violation – Penalty, a person who intentionally ingests, inhales, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

Under NDCC section 19-03.1-22.5, Controlled Substance Analog Use – Venue for Violation – Penalty, violations are as follows:

1. The use of controlled substance analog includes the ingestion, inhalation, absorption, or any other method of taking the controlled substance analog into the body. An individual who intentionally uses a controlled substance analog is guilty of a class C felony, unless the individual obtains the analog directly from a practitioner or pursuant to a valid prescription or order of a practitioner.
2. The venue for a violation under this section exists in the jurisdiction in which the substance was used or in which the substance was detected.

Under NDCC section 12.1-32-01, Classification of Offenses – Penalties, state offenses are divided in to seven classes which are denominated and subject to maximum penalties, as follows:

1. Class AA felony: up to life imprisonment without parole;
2. Class A felony: up to 20 years imprisonment, \$20,000 fine, or both;
3. Class B felony: up to 10 years imprisonment, \$20,000 fine, or both;
4. Class C felony: up to 5 years imprisonment, \$10,000 fine, or both;
5. Class A misdemeanor: up to one year imprisonment, \$3,000 fine, or both;
6. Class B misdemeanor: up to 30 days imprisonment, \$1,500 fine, or both; or

7. Infraction: up to a \$1,000 fine.

Federal trafficking penalties are provided under the Drug Enforcement Administration.

The violation of any offense may lead to disciplinary action by the University, as well as criminal prosecution. Disciplinary and appeal procedures for faculty are found in the Faculty Handbook, for staff in the Staff Personnel Policy Manual, in State Board of Higher Education policy 608.2 for employees excluded from the broadbanding system who are not faculty.

Federal statutes are available as printed in the August 16, 1990, Federal Register as part of the final regulations for the Drug-Free Schools and Communities Act 1990.

Institutional Response

All members of the campus community may refer individuals in violation of UND's Alcohol and Drug policy and applicable laws to the appropriate student conduct administrator, supervisor, campus official and/or University Police Department (UPD). Duly appointed administrative personnel who receive information pertaining to violations of this policy will initiate an institutional response. UPD is a resource that all members may use to report an individual in violation of this policy.

UND is responsible for preparing and disclosing alcohol- and drug-related statistics in compliance with the Jeanne Clery Act, 20 U.S.C. Section 1092. This federal mandate requires the disclosure of certain alcohol and drug statistics in addition to crime statistics so current and potential families, students, and employees can be knowledgeable about the safety of college campuses. The complete Annual Security and Fire Safety Report may be found online.

RESPONSIBILITIES

Affirmative Action Office	<ul style="list-style-type: none"> ▪ Provide information on disability issues and enforcement of this policy.
Athletics	<ul style="list-style-type: none"> ▪ Enforce alcohol and drug policies set forth by the NCAA, and all federal, state and local laws, and SBHE and University policies, and the <i>Code of Student Life</i>.
University Counseling Center <i>see also Student Chemical Assessment and Review Program</i>	<ul style="list-style-type: none"> ▪ Provide students individual and group counseling, alcohol and drug use assessment, referral for further evaluation and treatment, and educational programming.
Department Chair, Supervisor, Administrator	<ul style="list-style-type: none"> ▪ Contact Human Resources, Affirmative Action, or the next level of administration for assistance when notified of a staff or faculty member suspected of alcohol or controlled substance abuse. ▪ Recommend staff or faculty member contact EAP if suspected of alcohol or controlled substance abuse.
EAP	<ul style="list-style-type: none"> ▪ Provide a variety of services, including alcohol and drug dependence services, to benefited employees and their immediate family members.
Employees	<ul style="list-style-type: none"> ▪ Adhere to federal, state and local laws, NDCC, SBHE and University policies and regulations regarding the consumption or possession of alcoholic beverages and controlled substances. ▪ Report a colleague or co-worker under the influence of alcohol or unlawful use of a controlled substance to his/her department chair or supervisor. ▪ Report a supervisor or department head under the influence of alcohol or unlawful use of a controlled substance to next level of supervision or administration.
Health & Wellness Promotion Team – HW Hub	<ul style="list-style-type: none"> ▪ Increase awareness of alcohol and other substance use/abuse issues and programs.

	<ul style="list-style-type: none"> ▪ Offer information and referral services. ▪ Provide first level alcohol sanctions.
Human Resources	<ul style="list-style-type: none"> ▪ Follow-up on reports of faculty/staff substance abuse.
Office of the President	<ul style="list-style-type: none"> ▪ Distribute Alcohol Permit form as necessary. ▪ Review/approve Alcohol Permit applications.
Student Chemical Assessment and Review Program	<ul style="list-style-type: none"> ▪ Use classroom and counseling modes to provide education and elicit understanding of the cultural and biological implications of the use, illegal use, and abuse of alcohol and drugs. ▪ Used as sanctioning referral for most drug, most second alcohol, or most serious alcohol-involved violations. ▪ Prescribe substance use evaluation or recommend treatment through a private counselor, as needed (done by a licensed addiction counselor).
Student Conduct Administrators	<ul style="list-style-type: none"> ▪ Respond to reports of the illegal use of substances by students.
Students	<ul style="list-style-type: none"> ▪ Adhere to federal, state and local laws, SBHE policies, and University policies and regulations, and the <i>Code of Student Life</i> regarding the consumption or possession of alcoholic beverages and controlled substances.
UND Police	<ul style="list-style-type: none"> ▪ Responsible for safety and the enforcement of law on campus including the referral of individuals to the court system. ▪ Refer persons in violation of drug and alcohol policies and applicable laws to the appropriate student conduct administrator, supervisor, campus officials and/or court system. ▪ Report crime statistics in accordance with the Clery Act.
University of North Dakota	<ul style="list-style-type: none"> ▪ Notify parents/guardian after a student's second alcohol offense and any subsequent alcohol offense if the student is under 21 years of age. ▪ Notify parents/guardian of a first alcohol offense if the violation is more serious: driving under the influence of alcohol, incident involving violence or property damage and student is under 21 years of age. ▪ Notify parents/guardian of a drug offense if the student is under 21 years of age. ▪ May notify parents/guardian during a medical emergency involving a student.

FORMS

Activity/Event Approval Form	http://UND.edu/public-safety/_files/docs/activity-event-approval-form-7-2016.pdf
Alcohol Exception	http://UND.edu/finance-operations/alcohol-exception/index
Field Trip Form and Instructions	http://UND.edu/public-safety/public-safety/risk-management.cfm

REVISION RECORD

10/24/2009	Alcohol and Weapons Policy – Finance and Operations
08/2006	Substance Abuse Policy – Affirmative Action Office
09/2010	<i>Code of Student Life</i> – Dean of Students Office
8/18/2011 – Revision	<ul style="list-style-type: none"> ▪ Updated policy language for compliance with Clery Act requirements ▪ Formatted information according to standard policy template

11/04/2001 – Interim Approval	Signed by President Robert O. Kelley
06/17/2013 – Revision	<ul style="list-style-type: none"> ▪ Revised document to better encompass alcohol and drug policy/procedural information from various factions across campus ▪ Consolidated and streamlined information to meet requirements set forth by the State Board of Higher Education (SBHE), Clery Act, Drug Free Workplace Act, Drug-Free Schools and Communities Act and the North Dakota Century Code
07/17/2013 – Policy Implementation	Signed by President Robert O. Kelley
08/08/2014 – Revision	<ul style="list-style-type: none"> ▪ Updated website links throughout document ▪ Made minor grammatical changes ▪ Updated Procedures: Legal Sanctions to reflect current fines and added SBHE policy 608.2 for disciplinary use for employees excluded from broadbanding
08/14/2014 – Revision Approved	President Robert O. Kelley
07/01/2015 – Revision	<ul style="list-style-type: none"> ▪ Updated website links throughout document ▪ Added NDCC and city code to Procedures: Legal Sanctions ▪ Added NDCC information in Procedures: Student Use of Alcohol and Drugs: Medical Amnesty Act And Overdose Prevention And Immunity ▪ Revised Procedures: Alcohol Exception based on SBHE policy 918 revision ▪ Updated contact information for EAP provider
07/20/2015 – Revision Approved	<ul style="list-style-type: none"> ▪ President Robert O. Kelley
09/10/2015 – Revision	<ul style="list-style-type: none"> ▪ Updated website links for alcohol exception form and for Policy Office
10/17/2016 – Revision	<ul style="list-style-type: none"> ▪ Updated website links throughout document ▪ Removed reference to “on-campus” when addressing alcoholic beverages, controlled substances and illegal drugs from Policy Statement, Principles: Overview, Procedures: Student Use of Alcohol and Drugs: Student Alcohol and Drug Policy, and Procedures: Employee Use of Alcohol and Drugs: Employee Alcohol and Drug Policy ▪ Changed Dean of Students Office reference to Office of Student Rights and Responsibilities throughout document ▪ Removed reference to University Program Council and Health & Wellness and in Procedures: Student Use of Alcohol and Drugs: Alcohol-Free Opportunities ▪ Changed Human Resources and Payroll Services to Human Resources throughout document
01/25/2017 – Revision	<ul style="list-style-type: none"> ▪ Added information pertaining to medical marijuana to Definitions: Illegal Drug ▪ Added definition of medical marijuana to Definitions ▪ Added information regarding student conduct hearing to Definitions: Student Conduct Administrators ▪ Added referenced to federal law in Definitions: Substance Abuse ▪ Added NDCC 19-24 to Related Information ▪ Added statement prohibiting use of medical marijuana on campus in Principles: Overview, Principles: Alcohol- and Drug-Free Workplace Statement, Procedures: Student Use of Alcohol and Drugs, Procedures: Employee use of Alcohol and Drugs ▪ Updated process by which a student organization becomes recognized in Procedures: Student Use of Alcohol and Drugs

- Updated links throughout document
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