

## **Introduction/Overview**

The Drug-Free Schools and Campuses Regulations (345 CFR Part 86) of the Drug-Free Schools and Communities Act (DFSCA) require an institution of higher education, such as York College, certify implemented programs to prevent the abuse of alcohol and use or distribution of illicit drugs both by York College students and employees both on its premises and as a part of any of its activities. At a minimum, each institution of higher education must annually distribute the following in writing to all students and employees:

- Standards of conduct that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;
- A description of the legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- A clear statement that the institution will impose sanctions on students and employees and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct.

York College has adopted a policy on drug and alcohol abuse in compliance with Drug-free Schools and Communities Amendments Act of 1989.

York College provides information on drug and alcohol abuse annually and offers aid and counsel to those who struggle with these issues. The College may dismiss students when appropriate as per the guidelines laid out in our Student Handbook. The institution is committed to a drug and alcohol free campus for its students

## **State and Federal regulations for Employees and Students Regarding Alcohol and Drugs**

The illegal possession, use, or distribution of drugs or alcohol by students and employees is a violation of York College rules as well as State and Federal laws. In satisfaction of this mandate and in order to fulfill its obligations under the Drug Free Workplace Act of 1988 and the Safe and Drug-Free Schools and Communities Act of 1994, York College, in accordance to State and Federal regulations, has put in place the following guidelines for both its employees and its students which prohibit the following acts:

- use, possession, manufacture, distribution, or sale of illegal drugs or drug paraphernalia on College premises or while on College business or at College activities, or in College supplied vehicles either during or after working hours;
- unauthorized use or possession or manufacture, distribution, or sale of a controlled substance as defined by the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., or Nebraska's Uniform Controlled Substances Act, Neb. Rev. Stat. §§ 28-401 et seq., (Reissue 2008, Cum. Supp. 2016), available at <http://nebraskalegislature.gov/laws>, on College premises, or while engaged in College business or attending College activities or in College supplied vehicles, either during or after working hours;
- unauthorized use, manufacture, distribution, possession, or sale of alcohol on College premises or while on College business, at College activities, or in College-supplied vehicles, either during or after working hours;

- storing in a locker, desk, vehicle, or other place on College owned or occupied premises any unauthorized controlled substances, drug paraphernalia, or alcohol;
- possession, use, manufacture, distribution, or sale of illegal drugs off College premises that adversely affects the employee's work performance or the student's academic performance, or an employee's or student's safety or the safety of others;
- violation of State or Federal laws relating to the unauthorized use, possession, manufacture, distribution, or sale of alcohol, controlled substances, or drug paraphernalia;
- in the case of employees, failure to notify an employee's supervisor of an employee's arrest or conviction under any criminal drug statute as a result of a violation of law which occurs at the College of Nebraska workplace.

### **Description of Applicable Legal Sanctions Under Federal, State or Local Law For Unlawful Possession or Distribution of Illicit Drugs and Alcohol**

The information on the following pages summarizes selected provisions of Federal, State, and local laws that provide criminal and civil penalties for unlawful possession or distribution of drugs and alcohol.

#### **Federal Penalties and Sanctions for Illegal Possession of Controlled Substances**

- **21 U.S.C. § 844(a)**  
 First Conviction: Up to 1 year imprisonment and fine of at least \$1,000 or both.  
 After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fine of at least \$2,500.  
 After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fine of at least \$5,000.
- **21 U.S.C. § 853(a) and 881(a)**  
 Forfeiture of tangible and intangible personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. Forfeiture of vehicles, boats, aircraft, or any other conveyance used, or intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances.
- **21 U.S.C. § 844(a)**  
 Civil fine of up to \$10,000 for each violation of 21 U.S.C. § 844 involving controlled substances listed in 21 U.S.C. § 841(b)(1)(A).
- **21 U.S.C. § 862**  
 Denial of Federal benefits, such as financial aid grants, contracts, student loans, and professional and commercial licenses, for individuals convicted of distributing controlled substances (drug trafficking). The denial can last up to 5 years for the first conviction and up to 10 years for the second conviction. Those who have three or more convictions will be permanently ineligible for all Federal benefits.

- **18 U.S.C. § 922(g)**  
Ineligible to receive or possess a firearm or ammunition.
- **Miscellaneous**  
Authority to revoke certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., is vested with the officials of individual Federal agencies.

**Note:** These are only Federal penalties and sanctions. Additional State penalties and sanctions may apply.

The United States Drug Enforcement Administration publishes information that summarizes trafficking penalties under Federal law for various types of drugs; it is available at: <http://www.dea.gov/druginfo/ftp3.shtml>.

### **Description of Applicable Legal Sanctions Under State or Local Law for Unlawful Possession or Distribution of Illicit Drugs and Alcohol**

#### **State Penalties and Sanctions for Illegal Possession of Controlled Substances**

The framework for the regulation of most drugs, also called controlled substances, is set out in the Uniform Controlled Substances Act. In addition, other Nebraska State laws establish penalties for various drug-related offenses as summarized below.

#### **Crimes Involving Minors**

Any person 18 years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver or dispense a controlled substance or a counterfeit controlled substance (i) to a person (under the age of 18 years; (ii) in, on, or within 1,000 feet of a school, college, university, or playground; or (iii) within 100 feet of a youth center, public swimming pool, or video arcade shall be punished more severely. The law also provides for an enhanced penalty for anyone 18 years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of 18 years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance. See Neb. Rev. Stat. § 28-416(4) and (5) (Cum. Supp. 2016).

Persons under the age of eighteen who violate the drug laws may be subject to additional sentencing provisions found in Neb. Rev. Stat. § 28-416 (14) (Cum. Supp. 2016), these include impounding licenses or permits issued under the Motor Vehicle Operator's License Act, completion of community service, and attending drug education classes.

#### **Probation Conditions**

Any person convicted of a drug law violation, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse. Neb. Rev. Stat. § 28-416 (14) (Cum. Supp. 2016).

#### **Property Forfeiture**

Property used to manufacture, sell, or deliver controlled substances can be seized and forfeited to the State. Property subject to forfeiture may include cash, cars, boats, and airplanes, as well as drug

paraphernalia, books, records, and research, including formulas, microfilm, tapes, and data. Neb. Rev. Stat. § 28-431 (Reissue 2008).

### **Being Under the Influence of Any Controlled Substance for Unauthorized Purpose**

It is a violation of Nebraska law to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a practitioner. In a prosecution, the State need not prove that the accused was under the influence of a specific controlled substance, only that the accused manifested symptoms or reactions caused by the use of any controlled substance. Neb. Rev. Stat. § 28-417(1)(g) (Reissue 2008).

### **Drug Paraphernalia Offenses**

It is a violation of Nebraska law to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Neb. Rev. Stat. § 28-441(1) (Reissue 2008).

"Drug paraphernalia" is defined to include such things as hypodermic syringes, needles, pipes, bongos, roach clips, and other items used, intended for use, or designed for use with controlled substances. Neb. Rev. Stat. § 28-439 (Reissue 2008).

It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. This section does not apply to pharmacists who sell hypodermic syringes or needles for the prevention of the spread of infectious diseases. Neb. Rev. Stat. § 28-442 (Reissue 2008).

It is a violation of Nebraska law for a person 18 years of age or older to deliver drug paraphernalia to a person under the age of 18 who is at least 3 years his or her junior. Neb. Rev. Stat. § 28-443 (Reissue 2008).

A violation of Neb. Rev. Stat. § 28-441 (use or possession of drug paraphernalia) is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within two years of the first is punishable by a fine not less than \$100 and not more than \$300; a third offense within two years of the second is punishable by a fine of not less than \$200 and not more than \$500. Neb. Rev. Stat. §§ 28-441 and 29-436 (Reissue 2008). The penalty for violation of Neb. Rev. Stat. § 28-442 (delivery or manufacture of drug paraphernalia) is not more than a 6-month imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 28-442 (Reissue 2008) and § 28-106(1) (Reissue 2008; Cum. Supp. 2014). The penalty for violation of Neb. Rev. Stat. § 28-443 (delivery of drug paraphernalia to a minor) is imprisonment for not more than 1 year or a \$1,000 fine or both. Neb. Rev. Stat. § 28-443 (Reissue 2008) and § 28-106(1) (Cum. Supp. 2014).

### **Imitation Controlled Substances**

It is a violation of Nebraska law to knowingly or intentionally manufacture, distribute, deliver, or possess with intent to distribute or deliver an imitation controlled substance. Neb. Rev. Stat. § 28-445 (Cum. Supp. 2014). "Imitation controlled substance" is a substance that is not a controlled substance or controlled substance analogue but which is represented to be an illicit controlled substance or controlled substance analogue. Neb. Rev. Stat. § 28-401 (29) (Cum. Supp. 2014). First offense violations of this law are punishable by a 3-month imprisonment or a \$500 fine or both. A second offense violation of this statute is punishable by not more than a 6-month imprisonment or a

\$1,000 fine or both. Neb. Rev. Stat. § 28-445( Cum. Supp. 2014) and § 28-106(1) (Cum. Supp. 2014).

### **Controlled Substance Analogue**

For purposes of Nebraska's Uniform Controlled Substance Act, controlled substance analogues (often called "designer drugs") are treated as controlled substances. Such an analogue is defined as (a) substantially similar in chemical structure to the chemical structure of a controlled substance or (b) having a stimulant, depressant, analgesic or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the effect of a controlled substance. Neb. Rev. Stat. § 28-401(30) (a) (Cum. Supp. 2014).

### **Nebraska Alcohol Offenses**

#### **Minor In Possession**

It is against the law for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. Neb. Rev. Stat. § 53-180.02 (Reissue 2010). Penalties for violation of this law may include one or more of the following: the impoundment of the offender's license for thirty days or more; the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; or submission to an alcohol assessment by a licensed counselor. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2016); § 28-106(1) (Cum. Supp. 2014).

#### **Safe Harbor**

A penalty may not be imposed on a person who otherwise violated this law if the person (i) requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent; (ii) was the first person to make the request for medical assistance; and (iii) when emergency medical assistance was requested for the possible alcohol overdose of another person: (A) remained on the scene until the medical assistance arrived; and (B) cooperated with medical assistance and law enforcement personnel. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2014).

#### **Procuring Alcohol**

It is a violation of Nebraska law to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. Neb. Rev. Stat. § 53- 180 (Cum. Supp. 2016). Violation of this law is generally punishable by not more than a 1-year imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 53-180.05(1) (Cum. Supp. 2014) and § 28-106(1) (Cum. Supp. 2014). However, if alcohol is knowingly and intentionally provided to a minor and the minor's consumption of the alcohol or impaired condition attributed to the alcohol leads to the serious bodily injury or death of any person, the person who provided the alcohol shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18-month post release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. See Neb. Rev. Stat. § 53-180.05(2) (Cum. Supp. 2014) and Neb. Rev. Stat. § 28-105(1) (Supp. 2015) available at <http://nebraskalegislature.gov/laws>.

#### **Consumption on Public Property**

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. Neb. Rev. Stat. § 53-186 (Cum. Supp.

2014). A violation of this statute is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within 2 years of the first is punishable by a fine not less than \$100 and not more than \$300; a third offense within 2 years of the second is punishable by a fine of not less than \$200 and not more than \$500. Neb. Rev. Stat. § 53-186 (Cum. Supp. 2014) and § 29-436 (Reissue 2008).

### **Driving While Intoxicated**

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a concentration of eight-hundredths (.08) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath. Neb. Rev. Stat. § 60-6,196 (Reissue 2010).

Violation of this law is punishable on first offense by not more than 60 days but not less than 7 days of imprisonment and a \$500 fine. Neb. Rev. Stat § 60-6,197.03 (Cum. Supp. 2016) and § 28-106(1) (Cum. Supp. 2014). In addition, an offender's driver's license is revoked for 6 months and the offender is ordered not to drive any motor vehicle for any purpose for a like period. Neb. Rev. Stat. § 60- 6,197.03(1) (Cum. Supp. 2014). Suspended sentence or probation includes a mandatory requirement that probation or suspension be conditioned on an order that the offender will not drive any motor vehicle for any purpose for 60 days and pay a \$500 fine. Neb. Rev. Stat. § 60-6,197.03(1) (Cum. Supp. 2014).

Penalties for a second conviction include a \$500 fine and a maximum of a 6-month imprisonment, with no less than a mandatory 30-day imprisonment. Neb. Rev. Stat. § 60-6,197.03 (Cum. Supp. 2014) and § 28-106(1) Cum. Supp. 2014). As part of the judgment of conviction, the offender's operator's license is revoked for 18 months. Neb. Rev. Stat. § 60-6,197.03(3) (Reissue 2010; Cum. Supp. 2014; Supp. 2015). If an offender is placed on probation or the sentence is suspended, a mandatory condition is that the offender must not drive any motor vehicle for any purpose for a period of 18 months. Neb. Rev. Stat. § 60- 6,197.03(3) (Cum. Supp. 2014). In addition, the probation order shall include as one of its conditions the payment of a \$500 fine and confinement in the city or county jail for 10 days or the imposition of not less than 240 hours of community service. Neb. Rev. Stat. § 60- 6,197.03(3) (Cum. Supp. 2014).

Penalties for a third conviction include a \$1,000 fine and a maximum of a 1-year imprisonment, with a minimum 90-day imprisonment, and an order of license revocation for 15 years. Neb. Rev. Stat. § 28-106(1) (Cum. Supp. 2014) and Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2014). If an offender is placed on probation, or the sentence is suspended, a mandatory condition is that the offender's operator's license shall be revoked for a period of at least 2 years but not more than 15 years. Neb. Rev. Stat. § 60-6,197.03(4) (Reissue 2010; Cum. Supp. 2014; Supp. 2015). In addition, the probation order shall include the payment of a \$1,000 fine and as one of its conditions confinement in the city or county jail for 30 days. Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2014).

Fourth and subsequent convictions are a Class IIIA felony. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014). Offenders in this class will have their licenses revoked for a period of 15 years and the offender must spend at least 180 days imprisoned in a city or county jail or an adult correctional facility. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014). Probation or suspension of sentence must be conditioned so that the offender's license is revoked for a period of 15 years. The revocation order shall require that the offender not drive for 45 days after which he or she may apply for an ignition interlock permit and installation of such device. Neb. Rev. Stat. § 60-

6,197.03(7) (Cum. Supp. 2014). In addition, the probation order shall include as one of its conditions a \$2,000 fine and confinement in the city or county jail for 90 days with required use of a continuous alcohol monitoring device and abstinence from alcohol use for no less than 90 days after release. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014).

Persons with a higher concentration of alcohol, fifteen-hundredths (.15) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath on a first conviction and subsequent conviction, are subject to even stiffer penalties. Neb. Rev. Stat. § 60-6,197.03(2), (5), (6), (8) and (10) (Cum. Supp. 2016). Where a person has three prior convictions and then has another conviction involving this higher alcohol concentration, he or she shall be guilty of a Class IIA felony with a minimum sentence of one year of imprisonment, and has his or her license revoked for a period of 15 years. Neb. Rev. Stat. § 60-6,197.03(8) (Cum. Supp. 2016). In addition, any probation order shall be applied as previously indicated under Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014).

Persons convicted of a DWI violation may be ordered to have an ignition interlock device installed at their expense on each motor vehicle operated by the convicted person during the period of revocation. Neb. Rev. Stat. §§ 60-6,197.03 and 60-6,211.05 (Cum. Supp. 2014). DWI convictions also have an impact on the ability of a person to obtain both automobile and life insurance coverage.

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol, e.g. “open container” laws.

### **Students Found in Violation of These Policies**

Among previously stated consequences students found in violation of Campus Drug and Alcohol policies will need to complete an online course through 3rd Millennium Classrooms. These courses, Marijuana 101 and Under the Influence, are at the student's own expense.

### **Description of Health Risks Associated with Use of Illicit Drugs and Abuse of Alcohol**

Serious health risks are associated with the use of illicit drugs and alcohol. The National Institute on Drug Abuse states that most drugs of abuse can alter a person's thinking and judgment, leading to health risks, including addiction, drugged driving and infectious disease. Most drugs could potentially harm an unborn baby; pregnancy-related issues are listed for drugs where there is enough scientific evidence to connect the drug use to specific negative effects. These drugs and their effects are more thoroughly described by the National Institute on Drug Abuse through charts available [here](#).

### **Assistance, College Sanctions, and Other Information**

#### **Assistance**

Employees and students needing help in dealing with drug or alcohol problems are encouraged to make voluntary use of their campus Counseling Services. Counseling Services can help by offering the following services:

- Objectively assessing the situation and referring employees or students to the proper resources.
- Supplying short-term personal counseling and problem solving.
- Providing education and training to supervisors on how to intervene with troubled employees.

## **College Sanctions**

The College complies with the federal Drug-Free Workplace Act of 1988 and the Drug-Free Schools

and Communities Act Amendments of 1989 that prohibit the unlawful manufacture, possession, use, or distribution of illicit drugs in the workplace, or while conducting College business off the premises or as part of any College sponsored activities. As part of the terms of employment, each employee is required to abide by this prohibition. The College is an alcohol-free and smoke-free workplace. Employees who report to work, conduct College business, or take part in any College sponsored activities while under the influence of alcohol are subject to disciplinary action.

Additionally, employees will be subject to disciplinary action for possessing alcoholic beverages on College property or while attending any College sponsored activities. Disciplinary action may include: enrolling in and successfully completing an approved treatment program as a condition of continued employment and/or possible termination of employment if, in the view of the College, it is warranted. Finally, the College reserves the right to take disciplinary action against employees who commit criminal offenses related to drugs or alcohol, regardless of whether those offenses were committed during non-working hours. Drug or alcohol criminal offenses include but are not limited to: purchasing alcohol for minors, driving under the influence of alcohol, public intoxication, and possession of drugs. Any College employee convicted of a drug or alcohol related felony or using an illegal drug or alcohol in the workplace is subject to immediate dismissal. The College also prohibits smoking on College property. Employees who violate this policy are subject to disciplinary action.

## **Review**

Biennially the College will review its Substance Abuse Policy/Program to determine its effectiveness and to ensure that the sanctions required for violations of the policy are consistently enforced.