

**UNIVERSITY OF SOUTH DAKOTA ANNUAL POLICY NOTIFICATION  
DRUG-FREE SCHOOLS & CAMPUSES REGULATIONS [EDGAR PART 86]  
JANUARY 2024**

As a requirement of the Drug-Free Schools and Communities Act (1989), the University of South Dakota is to disseminate and ensure receipt of South Dakota Board of Regents & institutional policy and information below to all students, staff, and faculty on an annual basis. This process is formally conducted by the Dean of Students Office, University Police Department, the Student Counseling Center, and the General Counsel. Questions concerning this policy and/or alcohol and other drug programs, interventions and policies may be directed to the Vice President of Student Services/Dean of Students at [deanofstudents@usd.edu](mailto:deanofstudents@usd.edu) and (605) 658-3555.

**Polices - Alcohol, Other Drugs, and Weapons**

As an academic community, the University of South Dakota is committed to providing an environment in which learning and scholarship may flourish. The possession or use of illegal drugs, or the abuse of those which may otherwise be legally possessed, seriously affects the University environment, as well as the individual potential of our students and staff. The University enforces state laws and related University policies, including those prohibiting the following activities on campus:

- A. Providing alcoholic beverages to individuals under 21 or possession or consumption of alcoholic beverages by individuals under 21.
- B. Distribution, possession, or use of illegal drugs or controlled substances.
- C. Possession of firearms or other dangerous weapons.

The abuse of alcohol and other drugs by students, regardless of age and of location (on-campus or off-campus), is prohibited by the [Student Conduct Code](#). The University can, and will, impose disciplinary sanctions for students found in violation of SDBOR & institutional policies. Students are also subject to city ordinances and state and federal laws. Separate policies address violations by University [faculty](#) and [staff](#).

The University strongly encourages students and staff members to voluntarily obtain assistance for dependency or abuse problem before such behavior results in an arrest and/or disciplinary referral which might result in their separation from the institution. The use of, or addiction to, alcohol, marijuana, or controlled substances is not considered an excuse for violations of the Student Conduct Code or staff expectations and will not be a mitigating factor in the application of appropriate disciplinary sanctions for such violations.

Help is available both on campus and within the community for students and staff members who are dependent on, or who abuse the use of alcohol or other drugs. These resources include:

- Students:
  - Student Counseling Center ([www.usd.edu/scc](http://www.usd.edu/scc)); (605) 658-3580
- Faculty & Staff:
  - Employee Assistance Program (<https://www.guidanceresources.com> & enter the company code "southdakota" to register an account) or call (833) 955-3403

These and other professional agencies will maintain the confidentiality of persons seeking help for personal dependency and will not report them to institutional or state authorities. Additionally, the Student Counseling Center provides educational and awareness programming, information, and assistance to the campus community.

**Student Sanctions - Alcohol, Other Drugs, and Weapons**

Underage students found in violation by the institution for the consumption of alcohol will face conduct sanctions ranging from a formal warning to suspension/separation from the University. Students whose use of alcohol or

drugs results in harm or the threat of harm to themselves or others, or to property, regardless of the location of the incident, may face disciplinary action by the University up to and including expulsion.

Testing for the presence of illegal substances may be a condition of any probationary status imposed by the University for violations of drug-related provisions of policy. Student athletes may be subject to drug testing in accordance with NCAA guidelines and USD Athletics Department Policy. Student athletes may refer to the USD Student Athlete Handbook for more information. In accordance with [South Dakota Codified Law Chapter 3-6F](#), employees in safety sensitive positions may be subject to drug screening. Any student with a positive result, as described above, may face disciplinary action by the University up to and including expulsion.

As members of the University community, students are also subject to city ordinances and to state and federal law. Arrest and prosecution for alleged violations of criminal law or city ordinances may result from the same incident for which the University imposes disciplinary sanctions.

### **Employee Sanctions**

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by employees on University premises, or while conducting University business off University premises, is prohibited. Violations of this prohibition by employees may result in the application of sanctions, including possible required participation in an approved drug abuse assistance or rehabilitation program, and disciplinary action up to and including termination of employment under applicable South Dakota Board of Regents regulations ([SDBOR 4.4.8](#) & [SDBOR 4.3.1](#)), University policies, statutes, and employment contracts.

### **South Dakota Criminal Sanctions for Common Drug and Alcohol Offenses**

South Dakota law and local Vermillion Ordinances prohibit a wide variety of activities involving the possession, consumption or distribution of alcohol and other drugs. Penalties range from minor fines to life imprisonment. The following are common alcohol and drug related offenses, but this list is not exhaustive. Further details on current criminal prohibitions and authorized penalties contained in South Dakota law can be found at [www.sdlegislature.gov](http://www.sdlegislature.gov) (searchable within Codified Laws).

**Purchasing, Consuming Alcohol by a Minor:** It is a Class 2 misdemeanor for any person under the age of twenty-one to purchase, attempt to purchase, possess or consume alcoholic beverages. It is also a Class 2 misdemeanor for anyone under the age of 21 to misrepresent their age with the use of any document to purchase or attempt to purchase alcoholic beverages from any business licensed to sell alcohol beverages. SDCL 35-9-2.

#### **Furnishing Alcohol to Underage Persons:**

Any person 21 years of age or older purchasing or otherwise acquiring alcoholic beverages from a retail establishment and giving or reselling the alcoholic beverages to any person under the age of 21 is subject to a Class 1 misdemeanor. This offense is punishable by a maximum of one year in jail and/or a \$1,000 fine. The penalties and fines that may be imposed on the licensee, the clerk, and those who furnish alcohol to underage individuals may be found on the South Dakota Department of Revenue site:

<https://dor.sd.gov/businesses/taxes/alcohol/alcohol-laws-regulations/>

#### **Driving Under the Influence**

Driving or controlling a vehicle is prohibited while under the influence of alcohol, drugs, or intoxicants. This Codified Law is available on the South Dakota Legislative Research Council Site:

[https://sdlegislature.gov/#/Statutes/Codified\\_Laws/2054892](https://sdlegislature.gov/#/Statutes/Codified_Laws/2054892)

A jail sentence of up to one year and a fine up to \$2000 are authorized for a first offense DUI, with penalties increasing for subsequent offenses. Conviction of a third qualifying DUI is punishable by up to two years imprisonment and up to a \$4000 fine. Conviction for a fifth qualifying DUI is a Class 4 Felony, punishable by up to 10 years imprisonment and a \$20,000 fine. Mandatory license revocations for DUI (Driving Under the Influence) are set by statute. The duration of the revocation depends on how

many prior DUIs the defendant has that occurred within set timeframes prior to the current offense. Revocation lengths range from a mandatory minimum of 30-day license revocation for a first offense, to a mandatory minimum revocation of three years for a fifth qualifying offense. The judge is granted discretion in determining the fines and jail that are appropriate in each case.

#### **Open Container in a Vehicle**

South Dakota law generally prohibits any person occupying a motor vehicle upon a public roadway to consume any alcoholic beverage or possess any open receptacle containing alcohol within access of passengers or drivers of the vehicle. Violation of this law is a Class 2 Misdemeanor, punishable by up to 30 days imprisonment and a \$500 fine.

#### **Possession of Marijuana**

South Dakota law prohibits the possession of marijuana. Some limited exceptions apply for medical cannabis patients with qualifying medical conditions, registered and approved to possess medical cannabis through the South Dakota Department of Health. Possession of marijuana penalties vary depending on amount. Possession of two ounces or less is a Class 1 Misdemeanor, punishable by imprisonment for up to one year, and a fine up to \$2000, in addition to a civil penalty of up to \$10,000 that may be imposed upon a conviction for any possession. Possession of two to eight ounces is a Class 6 Felony, punishable by imprisonment up to two years and a fine up to \$4000. Progressively harsher penalties apply for greater amounts.

#### **Possession or Consumption of Other Controlled Substances**

Unlawful possession or consumption of a Controlled Substance listed in Schedules I or II (including heroin, morphine, codeine, cocaine, opium, methamphetamine, methylphenidate (Ritalin), and other substances) is a Class 5 Felony, punishable by imprisonment up to five years, and a fine of \$10,000, along with a civil penalty of up to \$10,000. Unlawful possession of a Controlled Substance listed in Schedules III and IV is a Class 6 Felony, punishable by imprisonment of up to two years and a fine of \$4000, along with a civil penalty of up to \$10,000.

#### **Manufacturing, Distributing or Possession with Intent to Distribute Controlled Substances**

Unauthorized manufacture, distribution, counterfeiting or possessing with intent to distribute a Class I or II Controlled substance is a Class 4 Felony, punishable by imprisonment up to ten years and a fine of \$20,000. Penalties may be increased to a Class 3 Felony if the person is in possession of certain other materials including cash, weapons and manufacturing or distributing supplies. If distribution is to a minor, it is a Class 2 Felony, punishable by imprisonment up to 25 years, and a fine of \$50,000.

### **Federal Drug Laws**

Possession, use, or distribution of illicit drugs is prohibited by federal law. Strict penalties are provided for drug convictions, including mandatory prison terms for many offenses. Penalties increase significantly where use of the illicit drugs results in death or serious bodily injury.

Federal Drug Laws are briefly described below. Detailed information is available in the resource guide of the Department of Justice's Drug Enforcement Administration (*Drugs of Abuse* – [https://www.dea.gov/sites/default/files/drug\\_of\\_abuse.pdf](https://www.dea.gov/sites/default/files/drug_of_abuse.pdf))

#### **Federal Drug Trafficking Penalties (21 USC 841)**

Penalties for federal drug trafficking convictions vary according to the quantity of the controlled substance involved in the transaction. The following list is a sample of the range and severity of federal penalties imposed for first convictions. Penalties for subsequent convictions are twice as severe.

If death or serious bodily injury result from the use of a controlled substance which has been illegally distributed, the person convicted on federal charges of distributing the substance faces mandatory life sentence and fines ranging up to \$8 million.

Persons convicted on federal charges of drug trafficking within 1,000 feet of a University (21 USC 845a) face penalties of prison terms and fines which are twice as high as the regular penalties for the offense, with a mandatory prison sentence of at least 1 year.

#### **Federal Drug Possession Penalties (21 USC 844)**

Persons convicted on Federal charges of possessing any controlled substance face penalties of up to 1 year in prison and a mandatory fine of no less than \$1,000 up to a maximum of \$100,000. Second convictions are punishable by not less than 15 days but not more than 2 years in prison and a minimum fine of \$2,500. Subsequent convictions are punishable by not less than 90 days but not more than 3 years in prison and a minimum fine of \$5,000. Possession of drug paraphernalia is punishable by a minimum fine of \$750.

Special sentencing provisions for possession of crack cocaine impose a mandatory prison term of not less than 5 years but not more than 20 years and a fine up to \$250,000, or both if:

- A. It is a first conviction and the amount of crack possessed exceeds 5 grams;
- B. It is a second conviction and the amount of crack possessed exceeds 3 grams;
- C. It is a third or subsequent crack conviction and the amount exceeds 1 gram.

Civil penalties of up to \$10,000 may also be imposed for possession of small amounts of controlled substances, whether or not criminal prosecution is pursued.

### **ADDITIONAL PENALTIES**

#### **Denial of Federal Aid (20 USC 1091)**

Under the Higher Education Act of 1998, students convicted under federal or state law for the sale or possession of drugs will have their federal financial aid eligibility suspended. This includes all federal grants, loans, federal work study programs, and other programs. Students convicted of drug possession will be ineligible for one year from the date of the conviction of the first offense, two years for the second offense, and indefinitely for the third offense. Students convicted of selling drugs will be ineligible for two years from the date of the first conviction, and indefinitely for the second offense. Those who lose eligibility may regain eligibility by successfully completing an approved drug rehabilitation program.

#### **Forfeiture of Personal Property and Real Estate (21 USC 853)**

Any person convicted of a federal drug offense punishable by more than one year in prison shall forfeit to the United States any personal or real property related to the violation, including houses, cars, and other personal belongings. A warrant of seizure is issued and property is seized at the time an individual is arrested on charges that may result in forfeiture.

#### **Counseling and Treatment**

Short term alcohol and other drug counseling is available on campus to students through the Student Counseling Center ([www.usd.edu/scc](http://www.usd.edu/scc)); (605) 658-3580. The chemical dependency program at the Student Counseling Center is accredited through the South Dakota Division of Alcohol and Drug Abuse for Level 0.5 Early Intervention Services, Prevention, and Level I Outpatient Services Program and Level II.I Intensive Outpatient Treatment Program. Students may be referred through the Student Counseling Center to other treatment programs for more intensive treatment. Through the University of South Dakota's Human Resources department, the [Employee Assistance Program](#) offers employees additional education and counseling, as well as appropriate referrals. The [Helpline Center](#) provides the current substance abuse counseling agencies in Vermillion and the surrounding areas including:

- [Substance Abuse Programs in Clay County](#), including:
  - Lewis & Clark Behavioral Health Services; (605) 665-4606  
<https://www.lcbhs.com/>
  - Avera Addition & Recovery Center – Sioux Falls; (605) 504-2222  
<https://www.avera.org/locations/profile/avera-addiction-care-center-sioux-falls/>
  - Alcoholics Anonymous – South Dakota Area 63; (605) 670-8268  
[www.area63aa.org](http://www.area63aa.org)

Interested individuals are encouraged to contact each agency for additional information regarding specific services and costs.

### Prevention and Education

Through the Student Counseling Center [([www.usd.edu/scc](http://www.usd.edu/scc)); (605) 658-3580] and other departments and offices, a variety of events, programs, and activities take place on campus to educate community members of the impact of drugs and alcohol on individuals and their communities. Individual, group and community educational programs and interventions designed to prevent and reduce alcohol and other drug use/abuse are offered at the University of South Dakota.

For more information concerning current programs, interventions and policies, contact the Vice President of Student Services/Dean of Students at [deanofstudents@usd.edu](mailto:deanofstudents@usd.edu) and (605) 658-3555.

### Health Risks of Commonly Abused Substances

The National Institutes of Health (NIH) provides a summary of the most commonly used drugs, the possible health effects, and treatment options. This resource is available at the NIH website:

<https://nida.nih.gov/research-topics/commonly-used-drugs-charts>

<b>On-Campus Resources/Information</b>	
Student Counseling Center	(605) 658-3580 <a href="http://www.usd.edu/scc">www.usd.edu/scc</a>
Student Health Services	(605) 677-3700 <a href="https://www.usd.edu/Student-Life/Student-Resources-and-Wellness">https://www.usd.edu/Student-Life/Student-Resources-and-Wellness</a>
Student Rights & Responsibilities	(605) 658-3561 <a href="http://www.usd.edu/srr">www.usd.edu/srr</a>
University Police Department	(605) 658-6199 <a href="http://www.usd.edu/upd">www.usd.edu/upd</a>
Student Legal Aid	(605) 658-3584 <a href="http://www.usd.edu/sga">www.usd.edu/sga</a>
Assistant Vice-President of Student Services / Dean of Students	(605) 658- 3555 <a href="http://www.usd.edu/student-life">www.usd.edu/student-life</a>
Employee Assistance Program	(833) 955-3403 <a href="https://www.guidanceresources.com">https://www.guidanceresources.com</a> & enter the company code southdakota to register

<b>Off-Campus Resources/Information</b>	
Vermillion Police Department – Emergency	911
Vermillion Police Department – Non - Emergency	(605) 677-7070 <a href="http://www.vermillionpd.org">www.vermillionpd.org</a>
Clay County Sheriff’s Office – Emergency	911
Clay County Sheriff’s Office – Non-Emergency	(605) 677-7100

<b>Off-Campus Resources/Information</b>	
	<a href="http://www.claysheriff.org/">www.claysheriff.org/</a>
Clay County State’s Attorney’s Office	(605) 677-7107 <a href="http://www.claycountystatesattorney.org">www.claycountystatesattorney.org</a>
Lewis & Clark Behavioral Health Services	(605) 665-4606 <a href="http://www.lcbhs.com/">www.lcbhs.com/</a>
Avera Addition & Recovery Center – Sioux Falls	(605) 504-2222 <a href="https://www.avera.org/locations/profile/avera-addiction-care-center-sioux-falls/">https://www.avera.org/locations/profile/avera-addiction-care-center-sioux-falls/</a>

In accordance with Americans with Disabilities Act of 1990, no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the University. Further, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the University or be subjected to discrimination by the University.

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