

## **Alcohol & Drug Policy**

In compliance with the Drug-Free Schools and Communities Act Amendments of 1989, The South Dakota Board of Regents strictly prohibits the unlawful possession, use or distribution of alcohol, marijuana or controlled substances by its students or employees while on property controlled by the Board of Regents or while participating in any capacity in activities or employments sponsored by it. Only under certain circumstances or events is permission granted by a member of the university administration for the consumption of alcohol.

The manufacture, sale, possession, or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by University Police Department. Violators are subject to disciplinary action within the University and/or criminal prosecution, fine and imprisonment. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. It is also a violation of USD policy for anyone to consume or possess alcohol in any public or private area of campus without prior University approval. Organizations or groups found in violation of alcohol and other substance policies or state or federal laws are subject to sanctions by the University.

## **USD Employee Alcohol & Drug Policy**

In compliance with the Drug-Free Workplace Act of 1988 the South Dakota Board of Regents strictly proscribes the unlawful manufacture, distribution, dispensing, possession or use of controlled substances by board employees and agents while on duty or while in any workplace controlled by the board. For purposes of this proscription, the workplace shall include premises and vehicles owned and controlled by the board and other premises and vehicles when used by the board for education, research, service or other official functions.

Any person violating this proscription shall be subject to appropriate disciplinary action, which may include termination of employment. The full text of the South Dakota Board of Regents policy related to the Drug-Free Workplace Act can be found at <http://www.sdbor.edu/policy/4-Personnel/documents/4-27.pdf>.

## **USD Parental Notification of Drug & Alcohol Violations**

The Family Educational Rights and Privacy Act (FERPA) permit colleges and universities to inform parents of drug and alcohol policy violations committed by their students. The University of South Dakota (USD) personnel understand that parents are partners in responding to issues of substance abuse. Thus, it is USD policy to notify parents or guardians of their student's alcohol and/or drug policy violation if the student is less than 21 years of age and not emancipated, and the violation occurred as follows:

1. Parental notification may occur when it is determined that the student has committed a second violation of the South Dakota Board of Regents (BOR) Alcohol/Drug Policy, that the violation resulted in at minimum an imposition of disciplinary probation and that the violation was (a) committed while on property owned or controlled by USD or any other BOR institution; or (b) committed during travel sponsored by a department, college, or recognized student organization of USD or any other BOR

institution; or (c) committed while attending an event sponsored by a USD department, college, or recognized student organization or that of any other BOR institution;

2. Violation of the Board of Regents Alcohol/Drug Policy by the student while enrolled at another institution under the control of the BOR shall be considered a violation under this policy.

3. The Dean of Students will determine, in each instance, whether parental notification will be made. In the event the Dean determines that parental notification is appropriate, notification of a parent or guardian shall be made in writing and mailed to the home address on record. Students whose parents will be notified consequent to a conduct process may view a template of the notification letter in the Office of Student Rights and Responsibilities.

4. Records of parental notification under this policy will be maintained in the Office of the Dean of Students or as s/he may otherwise designate.

5. In addition to the foregoing, USD policy provides for parental notification of drug or alcohol violation or misuse without prior notice to the student in circumstances where action has been or will be taken to protect the safety of the student or other individuals.

# FEDERAL TRAFFICKING PENALTIES

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500 – 4999 gms mixture	<b>First Offense:</b> Not less than 5 yrs, and not more than 40 years. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual.  <b>Second Offense:</b> Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual	5 kgs or more mixture	<b>First Offense:</b> Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.  <b>Second Offense:</b> Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.  <b>2 or More Prior Offenses:</b> Life imprisonment
Cocaine Base (Schedule II)	28–279 gms mixture		280 gms or more mixture	
Fentanyl (Schedule II)	40–399 gms mixture		400 gms or more mixture	
Fentanyl Analogue (Schedule I)	10 – 99 gms mixture		100 gms or more mixture	
Heroin (Schedule I)	100 – 999 gms mixture		1 kg or more mixture	
LSD (Schedule I)	1 – 9 gms mixture		10 gms or more mixture	
Methamphetamine (Schedule II)	5 – 49 gms pure or 50 – 499 gms mixture		50 gms or more pure or 500 gms or more mixture	
PCP (Schedule II)	10 – 99 gms pure or 100 – 999 gms mixture	100 gm or more pure or 1 kg or more mixture		
PENALTIES				
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid) Flunitrazepam (schedule IV) 1gm or more	Any amount	<b>First Offense:</b> Not more that 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.  <b>Second Offense:</b> Not more than 30 yrs. If death or serious injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.		
Other Schedule III drugs	Any amount	<b>First Offense:</b> Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.  <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.		
All other Schedule IV drugs	Any amount	<b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.  <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.		
Flunitrazepam (Schedule IV)	Less than 1 gm			
All Schedule V drugs	Any amount	<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.		

# FEDERAL TRAFFICKING PENALTIES — MARIJUANA

DRUG	QUANTITY	1st OFFENSE	2nd OFFENSE*
Marijuana (Schedule I)	1,000 kg or more mixture; or 1,000 or more plants	Not less than 10 years, not more than life  If death or serious injury, not less than 20 years, not more than life  Fine not more than \$10 million if an individual, \$50 million if other than an individual	Not less than 20 years, not more than life  If death or serious injury, mandatory life  Fine not more than \$20 million if an individual, \$75 million if other than an individual
Marijuana (Schedule I)	100 kg to 999 kg mixture; or 100 to 999 plants	Not less than 5 years, not more than 40 years  If death or serious injury, not less than 20 years, not more than life  Fine not more than \$5 million if an individual, \$25 million if other than an individual	Not less than 10 years, not more than life  If death or serious injury, mandatory life  Fine not more than \$8 million if an individual, \$50 million if other than an individual
Marijuana (Schedule I)	more than 10 kgs hashish; 50 to 99 kg mixture  more than 1 kg of hashish oil; 50 to 99 plants	Not more than 20 years  If death or serious injury, not less than 20 years, not more than life Fine \$1 million if an individual, \$5 million if other than an individual	Not more than 30 years  If death or serious injury, mandatory life Fine \$2 million if an individual, \$10 million if other than individual
Marijuana (Schedule I)	1 to 49 plants; less than 50 kg	Not more than 5 years  Fine not more than \$250,000, \$1 million other than individual	Not more than 10 years  Fine \$500,000 if an individual, \$2 million if other than individual
Hashish (Schedule I)	10 kg or less		
Hashish Oil (Schedule I)	1 kg or less		

\*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a mandatory term of life imprisonment without release and a fine up to \$8 million if an individual and \$20 million if other than an individual.

## FEDERAL TRAFFICKING PENALTIES

DRUG	QUANTITY	1ST OFFENSE	2ND OFFENSE	QUANTITY	1ST OFFENSE	2ND OFFENSE
<b>Methamphetamine</b>	5–49 pure or 50–499 gms mixture	Not less than 5 yrs. Not more than 40 yrs.  If death or serious injury, not less than 20 yrs. Not more than life.  Fine of not more than \$2 million individual or \$5 million other than individual.	Not less than 10 yrs. Not more than life.  If death or serious injury, not less than life.  Fine of not more than \$4 million individual, \$10 million other than individual.	50 gms or more or 500 gms or more mixture	Not less than 10 yrs. Not more than life.  If death or serious injury, not less than 20 yrs. Not more than life.  Fine of not more than \$4 million, individual, \$10 million other than individual.	Not less than 20 yrs. Not more than life.  If death or serious injury, not less than life.  Fine of not more than \$8 million individual, \$20 million other than individual.
<b>Heroin</b>	100–999 gms mixture			1 kg or more mixture		
<b>Cocaine</b>	500–4999 gms mixture			5 kg or more mixture		
<b>Cocaine Base</b>	5–49 gms mixture			50 gms ore more mixture		
<b>PCP</b>	10–99 gms pure or 100–999 gms mixture			100 gms or more or 1 kg or more mixture		
<b>LSD</b>	1–10 gms mixture			100 gms or more or 1 kg or more mixture		
<b>Marijuana (large amounts)</b>	100–999 kg or 100–999 plants	5–40 yrs. Fine up to \$5 million	10 yrs. to life. Fine up to \$10 million	1,000 kg or more or 1,000 or more plants	10 yrs. to life. Fine up to \$10 million.	20 yrs. to life. Fine up to \$20 million.
<b>Marijuana (smaller amounts)</b>	Less than 50 kg or 1–49 plants	Up to 5 yrs. Fine up to \$1 million.	Up to 10 yrs. Fine up to \$2 million.	50–99 kg or 50–99 plants	Up to 20 yrs. Fine up to \$5 million.	Up to 30 years. Fine up to \$10 million.
<b>Anabolic Steroids</b>	Any amount	Up to 5 yrs. Fine up to \$1 million.	Up to 10 yrs. Fine up to \$2 million.			

For more information regarding federal laws, please visit: <http://usdoj.gov/dea/index.htm>

## STATE AND CIVIL ALCOHOL PENALTIES

OFFENSE	PENALTY
For any person under the age of 21 years to purchase, attempt to purchase or possess or consume alcohol beverages except when consumed in a religious ceremony and given to said person by an authorized person, or to misrepresent his age with use of any document for the purpose of purchasing or attempting to purchase alcoholic beverages from any licensee licensed under this title. SDCL 35-9-2.	Class 2 misdemeanor; Thirty days imprisonment in a county jail or \$500 fine, or both. SDCL 22-6-2 (2).
First conviction or a first adjudication or delinquency for an alcoholic beverage violation while in a motor vehicle. SDCL 32-12-52.4	The Department of Commerce and Regulation shall suspend the driver's license or driving privilege of any person who was under the age of 21 when the offense occurred, for a period of 30 days. SDCL 32-12-52.4.
Second or subsequent conviction or a first adjudication of delinquency for an alcoholic beverage violation while in a motor vehicle. SDCL 32-12-52.4.	The Department of Commerce and Regulation shall suspend the driver's license or driving privilege of any person who was under the age of 21 when the offense occurred, for a period of 180 days SDCL 32-12-52.4.

## STATE AND CIVIL MARIJUANA PENALTIES

DRUG	QUANTITY	PENALTY	DRUG	QUANTITY	PENALTY
Marijuana Possession	2 ounces or less Class 1 misdemeanor	1 yr. county jail and/or fine up to \$2,000	Marijuana Distribution **	Less than 1/2 ounce Class 1 misdemeanor	1 yr. county jail and/or fine up to \$2,000
Marijuana Possession	2 ounces but less than 1/2 lb. Class 6 felony	2 yrs. state jail and/or fine up to \$4,000 *	Marijuana Distribution **	Less than 1 ounce Class 6 felony	2 yrs. state jail and/or fine up to \$4,000 *
Marijuana Possession	1/2 lb. but less than 1 lb. Class 5 felony	5 yrs. state jail and \$10,000 fine may be imposed *	Marijuana Distribution **	1 ounce but less than 1/2 lb. Class 5 felony	5 yrs. state jail and \$10,000 fine may be imposed *
Marijuana Possession	1 lb. but less than 10 lbs. Class 4 felony	10 yrs. state jail and \$20,000 fine may be imposed	Marijuana Distribution **	1/2 lb. but less than 1 lb. Class 4 felony	10 yrs. state jail and \$20,000 fine may be imposed
Marijuana Possession	10 lbs. or more Class 3 felony	15 yrs. state jail and \$30,000 fine may be imposed.	Marijuana Distribution **	1 lb. or more Class 3 felony	15 yrs. state jail and \$30,000 may be imposed
			Marijuana Distribution **	Any amount to a minor. Class 6 felony	10 yrs. state jail and \$10,000 fine may be imposed.

\* Convicted may be sentenced to the county jail of the county where person was convicted for a term of not more than one year in lieu of imprisonment.

\*\* Conviction shall be punished by a mandatory sentence in the state or county jail at least 30 days, which may not be suspended.

Note A civil penalty, up to \$10,000 may be imposed in addition to any criminal penalty, upon a conviction of these sections of South Dakota law.

Note: Distribution of marijuana to a minor is an aggravating circumstance and enhances penalties

# STATE CRIMINAL AND CIVIL PENALTIES FOR OFFENSE OF A CONTROLLED SUBSTANCE

	DRUG	OFFENSE	1ST CONVICTION	2ND CONVICTION
<b>Schedule I</b>	The drugs in this schedule are those that have no accepted medical use in the United States and have a high abuse potential. Some examples are heroin, marijuana, LSD, peyote, mescaline, psilocybin, tetrahydrocannabinols, ketobemidone, levoramidate, racemoramide, benzylmorphine, dihyaromorpine, nicocodeine, nicomorphine, methaqualone and others.	<b>A civil penalty, not to exceed \$10,000, may be imposed, in addition to any criminal penalty, upon a conviction of a violation of these sections of the South Dakota law. SDCL 22-42-2.</b>		
<b>Schedule II</b>	The drugs in this schedule have a high abuse potential with severe psychic or physical dependence liability. Schedule II controlled substances consist of certain narcotic, stimulant and depressant drugs. Some examples of Schedule II narcotic controlled substances are opium, morphine, codeine, hydromorphone (Dialudid), methadone (Dolophine), pantopon, meperidine (Demerol), cocaine, oxycodone (Percodan), naloxone (Leritine) and oxymorphone (Numorphan). Some examples of Schedule II non-narcotic are amphetamine (Benezdrine, Dexedrine), and Methamphetamine (Desoxyn), phenmetrazine (preludin), methylphenidate (Ritalin), amobarbital, pentobarbital, secobarbital, etorphine, hydrochloride, diphenoxylate and phencyclidine.	<p>MANUFACTURE, DISTRIBUTION, POSSESSION: Unauthorized manufacture, distribution, counterfeiting or possession of a substance listed in Schedules I or II is a Class 4 felony. SDCL 22-42-2</p> <p>DISTRIBUTION TO A MINOR: The distribution of a substance listed in Schedules I or II to a minor (a person under 21 years of age) is a Class 2 felony. SDCL 22-42-2</p> <p>No person other than a practitioner who is not a pharmacist, may dispense a controlled drug or substance included in Schedule II to an ultimate user without the written prescription of a practitioner who is not a pharmacist. No prescription for a Schedule II drug or substance shall be refilled. A violation of this section is a Class 4 felony. SDCL 22-42-2.1</p> <p>The drugs must have a currently accepted medical use in the US or currently accepted medical use with severe restrictions. SDCL 34-20B-15</p>	<p>Punished by mandatory sentence in the state penitentiary of at least one year, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. SDCL 22-42-2</p> <p>Punished by a mandatory sentence in the state penitentiary of at least 5 years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. SDCL 22-42-2</p>	<p>Punished by mandatory penitentiary sentence of at least ten years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. SDCL 22-42-2</p> <p>Punished by a mandatory sentence in the state penitentiary of at least fifteen years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. SDCL 22-42-2</p>
<b>Schedule III</b>	These drugs have an abuse potential less than those in Schedules I and II, and include compounds containing limited quantities of certain narcotic drugs and non-narcotic drugs such as derivatives of barbituric acid except those that are listed in another schedule, glutethimide (Doriden), methyprylon (Noludar), chlorhexadol, sulfondiethymethane, sulfonmethane, nalorphine, benzphetamine, sulfondiethymethane, sulfonmethane, nalorphine, clor-termine, mazindol, paregoric, flunitrazepam, and Gama Hydroxy butyrate.	<p>Except as authorized, no person may manufacture, distribute or dispense; possess with intent to manufacture, distribute or dispense; create or distribute a counterfeit; or possess with intent to distribute a counterfeit substance listed in Schedule III. Violation of this section is a Class 5 felony. SDCL 22-42-3</p> <p>DISTRIBUTION TO A MINOR: The distribution of a substance listed in Schedule III to a minor is a Class 3 felony. SDCL 22-42-3</p>	<p>Punished by a mandatory sentence in the state penitentiary or county jail of at least 30 days, which sentence may not be suspended. SDCL 22-42-3</p> <p>Punished by a mandatory penitentiary or county jail sentence of at least 90 days, which sentence may not be suspended. SDCL 22-42-3</p>	<p>Punished by a mandatory penitentiary or county jail sentence of at least 1 year, which sentence may not be suspended. SDCL 22-42-3</p> <p>Punished by a mandatory penitentiary or county jail sentence of at least 2 years, which sentence may not be suspended. SDCL 22-42-3</p>
<b>Schedule IV</b>	The drugs in this schedule have an abuse potential less than those listed in Schedule III and include such drugs as methylphenobarbital, chloral betaine (Beta Chior), chloral hydrate, triazolam, any substance which contains any quantity of a benzodiazepene, or salt of benzodiazepene, except those substances which are specifically listed in other schedules, buprenorphine, cathine, fencamfamine, fenproporex, mefenorex, pyrovalerone, propoxyphene, pentazocine, mazindol, mephorbarbital, premoline, petrichloral, zolpidem, butorphanol, and detropoxyphene (Darvon).	<p>No controlled drug or substance included in Schedule II, III or IV may be distributed or dispensed other than for a medical purpose. SDCL 22-42-2</p> <p>Any person who knowingly obtains a controlled substance from a medical practitioner and knowingly withholds information that he has obtained a controlled substance of a similar therapeutic use in a concurrent time period from another medical practitioner is guilty of a Class 1 misdemeanor. SDCL 22-42-17</p> <p>Any person who intentionally ingests, inhales, breathes or otherwise takes into the body any substance, except alcoholic beverages as defined in SDCL 35-1-1, for purposes of becoming intoxicated, unless such substance is prescribed by a practitioner of the medical arts lawfully practicing within the scope of their practice, is guilty of a Class 1 misdemeanor. SDCL 22-42-15</p> <p>Except as provided, no controlled drug or substance included in Schedule III or Schedule IV may be dispensed without a written or oral prescription. A violation is a Class 5 felony. SDCL 22-42-4.1</p>		<p>Punished by one year imprisonment in a county jail or \$2,000 fine, or both. SDCL 22-6-2 (1)</p> <p>Punished by 10 years imprisonment in the state penitentiary. In addition, a fine of \$20,000 may be imposed. SDCL 22-6-1 (7)</p>
<b>Schedule V</b>	The drugs in this schedule have an abuse potential less than those listed in Schedule IV and consist of preparations containing limited quantities of certain narcotic drugs generally for antitussive and anti-diarrheal purposes.	<p>No person may knowingly possess a controlled drug or substance unless the substance was obtained directly or Pursuant to a valid prescription from a practitioner while acting in the course of his practice. A violation of this section is a Class 4 felony. SDCL 22-42-5</p> <p>Any person who knowingly obtains possession of a controlled drug or substance by theft, misrepresentation, forgery, fraud, deception or subterfuge is guilty of a Class 4 felony. SDCL 22-42-8</p>		<p>Punished by 15 years imprisonment in the state penitentiary. In addition, a fine of \$30,000 may be imposed. SDCL 22-6-1 (6)</p>
	<p>Any person who inhabits a room knowing that any controlled drug or substance is being illegally stored or used therein, is guilty of a Class 1 misdemeanor. SDCL 22-42-11.</p> <p>No person may deliver or possess with intent to deliver or knowingly manufacture any noncontrolled substance which he represents to be a substance controlled under the provisions of South Dakota law. A violation of this section is a Class 6 felony. SDCL 22-42-16.</p> <p>Any person who knowingly makes, distributes or possesses any punch, die, plate, or other thing designed to print or reproduce the trademark, trade name or other identifying mark of another on any drug, or container or label thereof so as to make such drug a counterfeit controlled drug or substance is guilty of a Class 5 felony. SDCL 22-42-9.</p>			<p>Punished by one year imprisonment in a county jail or \$2,000 fine, or both. SDCL 22-6-2 (1)</p> <p>Five years of imprisonment in the state penitentiary or a fine of \$10,000 or both. SDCL 22-6-1 (8)</p> <p>Punished by 10 years imprisonment in the state penitentiary. In addition a fine of \$20,000 may be imposed. SDCL 22-6-1 (7)</p>