

**UNIVERSITY OF SOUTH DAKOTA ANNUAL POLICY NOTIFICATION
DRUG-FREE SCHOOLS & CAMPUSES REGULATIONS [EDGAR Part 86]
JANUARY 2021**

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 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); (605) 658-3580
- Faculty & Staff:
 - Employee Assistance Program (www.EAPHelplink.com & enter the company code southdakota); (800) 713-6288

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 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 presences 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 4:14](#) & [SDBOR 4:44](#)), University policies, statutes, and employment contracts.

South Dakota Sanctions for Violation of Alcohol Control Statutes

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/>

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.

Others Who Furnish 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.

South Dakota Sanctions for 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

The 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 the last ten years. The judge is granted more discretion in determining the fines and jail that are appropriate in a given case. The parameters for these possible punishments are tabled below:

	1 st offense	2 nd offense	3 rd offense-felony
Jail Time	Up to 1 year	Up to 1 year	Up to 2 years
Fines	Up to \$2,000	Up to \$2,000	Up to \$4,000
License Revocation	30 days to 1 year	At least 1 year	At least 1 year

Penalties for violating Codified Law are outlined on the South Dakota Legislative Research Council site:
https://sdlegislature.gov/#/Statutes/Codified_Laws/2054935

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 outlined in the table 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)

State of South Dakota Statutory Provisions for Illegal Drugs Manufacture or Delivery

State Criminal and Civil Penalties for Offense of a Controlled Substance				
	Drug	Offense	1 st Conviction	2 nd Conviction
Schedule I	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, levoramide, racemoramide, benzyl morphine, dihydromorphine, nicocodeine, nicomorphine, methaqualone and others.	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 (https://sdlegislature.gov/#/Statutes/Codified_Laws/2047754)		
Schedule II	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, hydro morphine (Dialudid), methadone (Dolophine), pantopon, meperidine (Demerol), cocaine, oxycodone (Percodan), anileridine (Leritine) and oxymorphone (Numorphan). Some examples of Schedule II non-narcotic is amphetamine (Benezdrine, Dexedrine), and Methamphetamine (Desoxyn), phenmetrazine (preludin), methylphenidate (Ritalin), amobarbital, pentobarbital, secobarbital, etorphine, hydrochloride, diphenoxylate and phencyclidine.	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 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 No person other than a practitioner who is 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 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 The drugs must have a currently accepted medical use in the US or currently accepted medical use with severe restrictions. SDCL 34-20B-15	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 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	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 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>Schedule III</p>	<p>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, sulfondiethymethan, sulfonmethan, nalorphone, clor-terminine, mazindol, paregoric, flunitrazepam, and Gama Hydroxy butyrate.</p>	<p>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 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 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 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>
<p>Schedule IV</p>	<p>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, mephobarbital, premoline, petrichloral, zolpidem, butorphanol, and detropopoxyphene (Darvon).</p>	<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 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 from another medical practitioner is guilty of a Class 1 misdemeanor. SDCL 22-42-17 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 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 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 for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a substance in Schedule III and IV is a Class 6 felony. SDCL 22-42-5 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 one-year imprisonment in a county jail or \$2,000 fine, or both. SDCL 22-6-2 (1) Punished by 10 years imprisonment in the state penitentiary. In addition, a fine of \$20,000 may be imposed. SDCL 22-6-1 (7) 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>Punished by one-year imprisonment in a county jail or \$2,000 fine, or both. SDCL 22-6-2 (1) Five years of imprisonment in the state penitentiary or a fine of \$10,000 or both. SDCL 22-6-1 (8) 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>
<p>Schedule V</p>	<p>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 antidiarrheal purposes.</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. 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. 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) Five years of imprisonment in the state penitentiary or a fine of \$10,000 or both. SDCL 22-6-1 (8) 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>	<p>Punished by one-year imprisonment in a county jail or \$2,000 fine, or both. SDCL 22-6-2 (1) Five years of imprisonment in the state penitentiary or a fine of \$10,000 or both. SDCL 22-6-1 (8) 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>

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.

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 Tracking Penalties for Marijuana, Hashish and Hashish Oil, Schedule I Substances

Marijuana 1,000 kilograms or more marijuana mixture or 1,000 or more marijuana plants	<u>First Offense:</u> Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual. <u>Second Offense:</u> Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana 100 to 999 kilograms marijuana mixture or 100 to 999 marijuana plants	<u>First Offense:</u> Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual. <u>Second Offense:</u> Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual.
Marijuana 50 to 99 kilograms marijuana mixture, 50 to 99 marijuana plants	<u>First Offense:</u> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual. <u>Second Offense:</u> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Hashish More than 10 kilograms	
Hashish Oil More than 1 kilogram	
Marijuana less than 50 kilograms marijuana (does not include 50 or more marijuana plants regardless of weight) 1 to 49 marijuana plants	<u>First Offense:</u> Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual. <u>Second Offense:</u> Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual.

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.

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); (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/services/behavioral-health/addiction-recovery/>
 - Alcoholics Anonymous – South Dakota Area 63; (605) 670-8268
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); (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. The Wellness Coalition, a University committee chaired by the Prevention Coordinator in the Student Counseling Center, provides evidence-based alcohol education and prevention programs.

For more information concerning current programs, interventions and policies, contact the Vice President of Student Services/Dean of Students at 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://www.drugabuse.gov/sites/default/files/Commonly-Used-Drugs-Charts_final_June_2020_optimized.pdf

On-Campus Resources/Information

Student Counseling Center	(605) 658-3580 www.usd.edu/scc
Student Health Services	(605) 677-3700 www.usd.edu/student-life/student-health
Student Rights & Responsibilities	(605) 658-3561 www.usd.edu/srr
University Police Department	(605) 658-6199 www.usd.edu/upd
Student Legal Aid	(605) 658-3584 www.usd.edu/sga
Vice-President of Student Services / Dean of Students	(605) 658- 3555 www.usd.edu/student-life
Employee Assistance Program	(800) 713-6288 www.EAPHelplink.com & enter the company code southdakota

Off-Campus Resources/Information

Vermillion Police Department – Emergency	911
Vermillion Police Department – Non - Emergency	(605) 677-7070 www.vermillionpd.org
Clay County Sheriff’s Office – Emergency	911
Clay County Sheriff’s Office – Non-Emergency	(605) 677-7100 www.claysheriff.org/
Clay County State’s Attorney’s Office	(605) 677-7107 www.claycountystatesattorney.org
Lewis & Clark Behavioral Health Services	(605) 665-4606 www.lcbhs.com/
Avera Addition & Recovery Center – Sioux Falls	(605) 504-2222 www.avera.org/services/behavioral-health/addiction-recovery/

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.

Special thanks to the EIU Illinois Higher Education Center for providing the reporting template for this document.