

Policy 602.3

NOTE: For purposes of all Appalachian State University policies, references to SPA (subject to the State Personnel Act [former terminology]) shall be interchangeable with SHRA (subject to the State Human Resources Act [current terminology]); and references to EHRA (exempt from the State Personnel Act [former terminology]) shall be interchangeable with EHRA (exempt from the State Human Resources Act [current terminology]).

1 Introduction

1.1 Appalachian State University is committed to maintaining an environment that supports and encourages the pursuit and dissemination of knowledge. All members of the academic community - students, faculty, administrators and staff, share in the responsibility of protecting and promoting that environment and all are expected to exemplify high standards of professional and personal conduct. The illegal or abusive use of alcohol and other drugs by members of the academic community adversely affects this educational environment. North Carolina and federal laws restrict or prohibit the use of alcohol and other drugs in various contexts. The illegal or abusive use of alcohol and other drugs is not compatible with personal health and welfare and the pursuit of academic excellence, and will not be tolerated by Appalachian State University on the campus or as part of any institutional activities.

1.2 The use and abuse of alcohol or other drugs can have serious negative consequences. High-risk choices can lead to significant academic, legal, financial, job performance and relationship problems, as well as problems with physical, mental and emotional health. A table of possible effects of such choices regarding controlled substances is set forth in ADM Appendix 6 , Controlled Substances - Uses and Effects. High-risk use of alcohol and other drugs is also a factor in injuries and deaths related to overdose, accidents and crimes.

1.3 As long as one person is involved in high-risk behavior, all are at risk because problems related to the use of alcohol and other drugs affect not only the user, but friends, family, classmates, coworkers and the entire Appalachian community. The goal is a safe and healthy University environment.

2 Scope

This policy applies to all university employees.

3 Definitions

4 Policy and Procedure Statements

4.1 General Policy

4.1.1 Appalachian State University recognizes the following as undesirable: the abuse of alcohol, the use of illegal drugs, and the abuse of medically prescribed or over-the-counter drugs. The University will attempt to minimize incidents of such conduct through educational and counseling activities, as well as student and employee disciplinary action.

4.2 Education and Counseling

4.2.1 Appalachian State University shall make alcohol and drug abuse education and counseling services available to all members of the academic community. These services shall include:

1. Educating the campus community about the health and safety hazards associated with alcohol and drug abuse and the incompatibility of alcohol and drug abuse with achievement of personal and educational goals.
2. Encouraging members of the campus community to make use of available campus and community counseling, and medical and rehabilitation resources in dealing with drug abuse problems. Appalachian State University assures persons who voluntarily avail themselves of these services that applicable professional standards of confidentiality will be observed.
3. Informing the campus community of the potential legal and educational consequences (including both criminal law and University discipline) of abuse or illegal use and/or distribution of alcohol and drugs.
4. Distributing annually to all members of the University community copies of Appalachian State University's Drug Policy Statement that addresses penalties, prevention, counseling and rehabilitation. Copies of the statement will also be distributed to all new employees upon employment.

4.3 Conduct Prohibited by the University

4.3.1 Prohibited Conduct

4.3.1.1 As citizens, students and employees are responsible for knowing about and complying with provisions of applicable federal, state and foreign laws that make it a crime to possess, sell, deliver or manufacture those drugs designated collectively as "http://policy.appstate.educontrolled substances,"http://policy.appstate.edu as well as those laws that related to sale, possession and use of alcoholic beverages. Any member of the University community who violates pertinent state, federal or foreign laws or University policy regarding these subjects may be disciplined.

4.3.1.2 The Drug-Free Workplace Act of 1988 and related regulations (34 CFR 85.600 et seq .) require that any employee who is convicted of any criminal drug statute violation occurring within the University community must notify the appropriate supervisor or management person no later than five (5) calendar days after such conviction. (Any employee who fails to provide notification shall be subject to disciplinary action up to and including dismissal.) Disciplinary action against any employee convicted of a drug offense within the University community must commence within 30 days after receipt of notice of the conviction. The University may, at any time initiate its own disciplinary proceedings against a student, faculty member, administrator or other employee when the alleged conduct (either on-campus or off-campus) is deemed to affect the interests of the University.

4.3.1.3 Penalties will be imposed for violation of the policies of Appalachian State University only in accordance with procedural safeguards applicable to disciplinary actions against students, faculty members, administrators and other employees, respectively. The penalties that may be imposed range from written warnings with probationary status to expulsion from enrollment and discharge from employment.

1. Faculty members who violate the University's policy on the illegal or abusive use of alcohol and other drugs will be subject to disciplinary action in accordance with personnel policies outlined in the Appalachian State University Faculty Handbook .
2. EHRA administrative personnel who violate the University's policy on the illegal or abusive use of alcohol and other drugs will be subject to disciplinary action in accordance with personnel policies outlined in the

Appalachian State University EHRA Administrative Personnel Handbook .

3. Staff employees who violate the University's policy on the illegal or abusive use of alcohol and other drugs will be subject to disciplinary action described in ADM Appendix 4 on the basis of policy and procedure outlined in the Staff Employee Handbook and Appalachian State University Resource Manual .
4. Students who violate the University's policy on the illegal or abusive use of alcohol and other drugs will be subject to disciplinary action in accordance with the provisions stated in the Appalachian State University Code of Student Conduct .

4.4 Legal Sanctions

4.4.1 Local, State, Federal and Foreign Laws

4.4.1.1 Local, state, federal and foreign laws provide a variety of legal sanctions and penalties for the unlawful possession, use or distribution of illicit drugs and alcohol. These sanctions include, but are not limited to, incarceration and monetary fines. The illegal or abusive use of drugs and alcohol by members of the academic community may subject them to criminal prosecution by governmental agencies in addition to disciplinary action by the University. Status as a student or employee of the University in no way insulates a law breaker from criminal prosecution and punishment. The constitutional concept of "http://policy.appstate.edouble jeopardy"http://policy.appstate.edu does not prevent state and/or federal prosecution and University punishment for conduct that violates state, federal or foreign law and University policy.

4.4.2 Alcohol

4.4.2.1 North Carolina General Statutes, section 18B-102, states the general rule relating to the possession, distribution and use of alcoholic beverages in North Carolina: "http://policy.appstate.eduUnless a different punishment is otherwise expressly stated, any person who violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine, by imprisonment for not more than two years, or both...."http://policy.appstate.edu Local laws and ordinances and University regulations are preempted by state laws regarding regulation of alcoholic beverages.

4.4.3 Illicit Drugs

4.4.3.1 The Federal Controlled Substances Act (21 U.S.C.A. 841, et seq .) provides "http://policy.appstate.edufirst-offense"http://policy.appstate.edu penalties of up to 15 years imprisonment and fines of up to \$25,000 for unlawful distribution or possession with intent to distribute narcotics. For unlawful possession of a controlled substance, a person is subject to up to five years of imprisonment and fines of up to \$15,000. Any person who unlawfully distributes a controlled substance after a prior conviction, or to a person under 21 years of age or within 1,000 feet of the university campus may be punished by up to twice the term of imprisonment and fine otherwise authorized by law.

4.4.3.2 North Carolina law provides that any person who violates the criminal statutes by selling, distributing or manufacturing opiates and narcotics such a cocaine and heroin, shall be guilty of a Schedule I or II drug offense.

4.4.3.3 For a Schedule I or II substance, the crime is a Class H felony punishable by maximum imprisonment of 10 years and/or a fine. Any person who sells, distributes or manufactures substances such as barbiturates, depressants, stimulants or marijuana shall be guilty of a Schedule III, IV, V or VI drug offense. This crime constitutes a Class I felony punishable by maximum imprisonment of five years and/or a fine. Possession of a Schedule I substance constitutes a Class I felony. Possession of a substance classified in Schedules II, III or IV constitutes a

misdemeanor punishable by maximum imprisonment of two years and/or a \$2,000 fine (or a Class I felony if quantity is sufficiently large). Possession of a substance classified in Schedule V constitutes a misdemeanor punishable by maximum imprisonment of six months and/or a \$500 fine. Possession of a Schedule VI substance is a misdemeanor punishable by maximum imprisonment of 30 days and/or a \$100 fine.

4.5 University Sanctions

4.5.1 Alcohol

4.5.1.1 The possession and use of alcohol on the campus of Appalachian State University must comply with the laws of the State of North Carolina and with campus regulations and procedures. The acquisition, possession, transportation and consumption of alcohol by anyone under 21 years of age is prohibited.

4.1.5.2 Alcohol may be possessed or consumed on University property only by persons 21 years of age or older in their rooms or in appropriately licensed and/or approved campus facilities. Persons are expected to assume responsibility for their own behavior while drinking and must understand that being under the influence of alcohol in no way lessens their accountability to the University community. Offenders will be dealt with through established University policies and procedures.

4.5.2 Trafficking in Illegal Drugs

4.5.2.1 The following minimum penalties shall be imposed for the particular offenses described:

1. For the illegal manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, of any controlled substance identified in Schedule I, North Carolina General Statutes, section 90-89, Schedule II, North Carolina General Statutes, section 90-90(including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamine, methaqualone) or similar relevant provisions of federal or foreign law, any student shall be expelled and any faculty member, administrator or other employee shall be discharged.
2. For a first offense involving the illegal manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, of any controlled substance identified in Schedules III through VI, North Carolina General Statutes, sections 90-91 through 90-94 (including, but not limited to, marijuana, pentobarbital, and codeine) or similar relevant provisions of federal or foreign law, the minimum penalty shall be suspension from enrollment or employment for a period of at least one semester or its equivalent. (SHRA employees will be dismissed in accordance with provisions stated in ADM Appendix 4.)
3. For a second offense, any student shall be expelled and any faculty member or EHRA administrative employee shall be discharged.

4.5.3 Illegal Possession of Drugs

1. For a first offense involving the illegal possession of any controlled substance identified in Schedule I, North Carolina General Statutes, section 90-89 or Schedule II, North Carolina General Statutes, section 90-90, or similar relevant provisions of federal or foreign law, the minimum penalty shall be suspension from enrollment or from employment for a period of at least one semester or its equivalent. (SHRA employees will be dismissed in accordance with provisions stated in ADM Appendix 4.)
2. For a first offense involving the illegal possession of any controlled substance identified in Schedules III through VI, North Carolina General Statutes, sections 90-91 through 90-94, or similar relevant provisions of federal or foreign law, the minimum penalty shall be probation, for a period to be determined on a

case-by-case basis. A person on probation must agree to participate in a drug education and counseling program, consent to regular drug testing, and accept such other conditions and restrictions, including a program of community service, as the Chancellor or the Chancellor's designee deems appropriate. Refusal or failure to abide by the terms of probation shall result in suspension from enrollment or from employment for any unexpired balance of the prescribed period of probation.

3. For second or other subsequent offenses involving the illegal possession of controlled substances, progressively more severe penalties shall be imposed, including expulsion of students and discharge of faculty members, administrators or other employees.

4.5.4 Suspension Pending Final Disposition

4.5.4.1 When a student, faculty member, administrator, or other employee has been charged by the University with a violation of policies concerning illegal drugs, he or she may be suspended from enrollment or employment before initiation or completion of regular disciplinary proceedings if, assuming the truth of the charges, the Chancellor or the Chancellor's designee concludes that the person's continued presence within the University community would constitute a clear and immediate danger to the health or welfare of other members of the University community; provided, that if such a suspension is imposed, an appropriate hearing of the charges against the suspended person shall be held as promptly as possible thereafter.

4.6 Reporting

4.6.1 Annually, the Chancellor will submit to the Board of Trustees a report that will include information about drug education/prevention programs and incidents related to the illegal or abusive use of drugs during the preceding year, an assessment of the effectiveness of the program, and any policy changes. A copy of the report shall be provided to the President, who shall confer with the Chancellor about the effectiveness of the campus programs.

4.6.2 The Chancellor will, in accordance with the requirements of the Drug-Free Workplace Act of 1988, notify federal granting or contract agencies within 10 days after receiving notice that an employee directly engaged in the grant or contracting work has been convicted of a drug offense in the University community.

4.7 University and Community Resources

4.7.1 Assessment and Referral

4.7.1.1 A wide array of resources is required to meet the counseling and rehabilitation needs of individuals who have substance abuse problems. These services generally include assessment and referral, social and/or medical detoxification, in-patient treatment, half-way house facilities, outpatient individual and group therapy, after-care programs, and self-help groups. Obviously, not all substance abusers are in need of all the services listed, however, the availability of this set of comprehensive services is desirable.

4.7.1.2 It is important to note that no Appalachian State University office or community/county (Boone/Watauga) based program provides the full range of treatment options. At present, the following services are available to members of the University community:

4.7.2 Campus Based

4.7.2.1 The Appalachian Substance Abuse Education Program, housed in the Wellness Center, offers a confidential network for students, providing information and referral services. These services include a resource library and individual and peer education covering all aspects of substance abuse-related issues. The Counseling and Psychological Services Center offers limited short-term outpatient counseling and referral information for students.

4.7.3 Community Based

4.7.3.1 The New River Mental Health Center provides assessment and referral services, detox facilities (Wilkesboro and Cannon Memorial Hospital), and is the portal of entry for state and private inpatient treatment. A few practitioners in the community offer individual outpatient therapy for persons preferring a private practice setting. A variety of local self-help groups are available, with each group establishing its own criteria for membership.

4.8 Discipline and Appeals for Possession or Use of Illegal Drugs

Drug abuse by members of the Appalachian community will subject them to disciplinary action by the University. There are two levels of severity of possession or use of drugs under the University of North Carolina Board of Governors guidelines. Appalachian State University staff (SHRA) employees can face disciplinary action under the following offenses:

4.8.1 Trafficking in Illegal Drugs

4.8.1.1 For illegal manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, of any controlled substance identified in Schedule I, North Carolina General Statutes, section 90-89, or Schedule II, North Carolina General Statutes, section 90-90 (including, but not limited to, marijuana, phenobarbital, and codeine) any staff employee will be dismissed from Appalachian State University.

4.8.1.2 Any permanent staff employee can grieve his or her dismissal using the first three steps of the established Appalachian State University Staff Grievance Procedure. Employees in the following positions can proceed to Step Four of the established procedure at the time of dismissal:

1. In a primary level position, an employee who has been continuously employed by the State of North Carolina for the immediate 12 preceding months;
2. In a secondary level or professional position, an employee who has been continuously employed by the State of North Carolina for the immediate 24 preceding months; or
3. In a management level or consultant position, an employee who has been continuously employed by the State of North Carolina for the immediate 36 preceding months.

4.8.2 Illegal Possession of Drugs

4.8.2.1 For the illegal possession of any controlled substance identified in Schedule I, North Carolina General Statutes, section 90-89, or Schedule II, North Carolina General Statutes, section 90-90, any staff employee will be dismissed from Appalachian State University. For a first offense involving the illegal possession of any controlled substance identified in Schedules III through VI, North Carolina General Statutes, sections 90-91 through 90-94, the minimum penalty will be a written warning indicating the following:

4.8.2.2 The employee must agree to participate in a drug education and counseling program, consent to regular drug testing, and accept such other conditions and restrictions, including a program of community service, as the Chancellor deems appropriate. Refusal or failure to abide by the terms outlined above will result in further disciplinary action. This will consist of the final written warning which may include suspension (maximum of three days). Further offenses involving the illegal possession of these controlled substances will result in dismissal.

4.8.2.3 In all of the above cases the employee has the right of appeal through the Appalachian State University Staff Grievance Procedure. When a staff employee has been charged by the University with a violation of policies concerning illegal drugs, he or she may be suspended from employment before initiation or completion of regular disciplinary proceedings if, assuming the truth of the charges, the Chancellor concludes that the person's presence within the University community would institute a clear and immediate danger to the health or welfare of other members of the University community; provided, that if such a suspension is imposed, an appropriate hearing of the charges against the suspended person shall be held as promptly as possible thereafter. This procedure is in keeping with the Office of State Personnel's policy on investigatory suspension.

4.9 Controlled Substances - Uses and Effects

In the process of revision.

4.10 Federal Trafficking Penalties

In the process of revision.

5 Additional References

5.1 References:

University of North Carolina Policy on Illegal Drugs, effective August, 1988; revised June, 1991

Drug-Free Workplace Act of 1988, 41 U.S.C.A. 701 et seq. , 34 C.F.R. 85.600 et seq

Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C.A. 1145g, 34 C.F.R. 86

6 Authority

7 Contact Information

8 Original Effective Date

9 Revision Dates