



POLICY & GUIDANCE MEMORANDUM

#2009-16: Drug-Free Workplace

University policy requires that the following notice be distributed each year throughout the UMass Boston community.

The University of Massachusetts Boston, in accordance with both federal legislation and existing University policy, is committed to providing a drug-free, healthful, and safe environment for all employees.

In the event that an employee is observed to be under the influence of drugs or alcohol during work hours, appropriate disciplinary action is to be taken. The progression of actions, from the least to the most severe, is the following:

1. The immediate supervisor will discuss his/her concerns and observations with the employee. He/she will recommend that the employee seek professional assistance and will suggest a referral to a substance abuse counseling/rehabilitation program. This will occur on an informal (verbal) basis and will not be included in the employee's personnel record. Appropriate arrangements will be made to ensure that the employee reaches his/her home safely that day.
2. Should there be a repeat occurrence, a formal written warning will be given, and again, the employee will be encouraged to utilize the services of a counseling/rehabilitation program.
3. Any continued use by the employee of drugs and/or alcohol at work will result in a suspension from work ranging from one to five days. At this time, the employee will be required to utilize the services of a counseling/rehabilitation program as a condition of employment.
4. Further use in the workplace of drugs and/or alcohol or failure to utilize the services of a counseling/rehabilitation program will result in a longer suspension and/or termination.

All employees will have available the appropriate hearing and grievance procedures during these disciplinary actions.

In addition, under the terms of the Drug Free Workplace Act, any employee engaged in the performance of a federal grant must, as a condition of employment, notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such a conviction.

Upon notification by an employee the University must, within 30 (thirty) days of receiving such notification with respect to any employee who is so convicted:(1) Take appropriate

personnel action against such an employee, up to and including termination, or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program.

The University recognizes alcohol and drug dependency as an illness and a major health problem. Alcohol is the number one drug problem in the country. Drinking alcohol has acute effects on the body. It impairs judgment, vision, coordination and speech and often leads to dangerous risk-taking behavior. These may include drunken driving, injuries and serious accidents. Nearly half of all accidental deaths, suicides and homicides are alcohol related. The misuse of alcohol is often involved in violent behavior, acquaintance rape, unintended pregnancies, and the exposure to sexually transmitted diseases. Long-term excessive drinking and drug use can lead to a wide variety of health problems in many different organ systems.

The use of drugs and alcohol can cause physical and psychological dependence. They can interfere with memory, sensation and perception. Drugs impair the brain's ability to synthesize information. Regular users of drugs develop tolerance and physical dependence often experienced by withdrawal symptoms. The psychological dependence occurs when the drug taking becomes central to the user's life.

Finding Help for Alcohol and Other Drug Problems

Many people with alcohol or other drug problems can be treated successfully entirely on an outpatient basis and do not have to interrupt their work and home lives. Outpatient programs exist in a variety of settings, including community mental health centers, family service agencies, private physicians' and therapists' offices, and specialized treatment facilities. Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities and community half-way houses.

Paying for Treatment

If you are covered by an insurance plan through the Group Insurance Commission or another healthcare provider, your insurance will pay for a portion of treatment for alcohol or other drug problems. Each plan has different provisions, but all provide some level of coverage. Contact your plan for information as to how you access treatment.

Employee Assistance Program

UMass Boston is pleased to offer ComPsych Guidance Resources to all of its employees. ComPsych is a comprehensive employee assistance program that provides confidential consultants you can call on the phone 24/7.

The EAP is a practical, confidential and constructive mechanism for dealing with employees' personal problems that may affect the work situation, or as an aid to those employees and their family members who wish to use the program as a means of resolving a personal problem.

The purpose of the Employee Assistance Program is to provide assistance to employees who are dealing with personal difficulties such as emotional problems, substance abuse issues,

relationship and family crises, and legal and financial concerns. Almost any personal or family problem can be successfully treated provided it is identified in its early stages and referral is made to an appropriate professional. This applies whether the problem is one of physical, mental or emotional illness, finances, etc.

To contact ComPsych, call 844-393-4893 or visit ComPsych online at www.guidanceresources.com (company ID: UMASS). For TDD service, call 800-697-0353. For additional information about how to use the program, contact the Department of Human Resources at 617-287-5150.

Summary of Massachusetts Substance Abuse Laws

- Massachusetts law prohibits the sale or delivery of alcoholic beverages to persons under 21 years of age, with a fine of up to \$2,000 and 1 year imprisonment, or both, for violations. Misrepresenting one's age or falsifying an identification to obtain alcoholic beverages is punishable by a fine of \$200 and up to 3 months imprisonment.
- A first conviction for driving under the influence of alcohol has a penalty of a \$500 up to \$5,000 fine, a revocation of one's driver's license, up to two½ years in prison, and mandatory participation in an alcohol rehabilitation program.
- Cities and towns in Massachusetts prohibit public consumption of alcohol and impose fines for violations. The Metropolitan District Commission also prohibits public consumption of alcohol in its parks.
- Criminal penalties for the illicit use of controlled substances ("drugs") vary with the type of drug. In general, narcotics, addictive drugs, and drugs with a high potential for abuse, have heavier penalties.
- Possession of controlled substances is illegal without valid authorization. While penalties for possession are generally not as great as for manufacture and distribution of drugs, possession of a relatively large quantity may be considered distribution. Under both State and Federal laws, penalties for possession, manufacture and distribution are much greater for second and subsequent convictions. Many of these laws dictate mandatory prison terms and require that the full minimum term be served.
- Massachusetts law makes it illegal to be in a place where heroin is kept and to be "in the company" of a person known to possess heroin. Anyone in the presence of heroin at a private party risks a serious drug conviction. Sale and possession of "drug paraphernalia" is also illegal in Massachusetts.
- It is illegal in Massachusetts to aid or abet a person under the age of 18 in dispensing, distributing or possessing with the intent to distribute or sell a controlled substance. Conviction leads to a minimum term of five years in prison.

Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance

- **21 U.S.C. 844(a)**

1st conviction: Up to 1 year imprisonment and fined at least \$1,000 but no more than \$100,000, or both.

After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500

After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but no more than \$250,000, or both.

Special sentencing provision for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both, if:

- (a) 1st conviction and the amount of crack possessed exceeds 5 grams.
- (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams.
- (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

- **21 U.S.C. 853(a)(2) and 881 (a)(7)**

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack)

- **21 U.S.C. 881(a)(4)**

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

- **21 U.S.C. 844a**

civil fine of up to \$10,000 (pending adoption of final regulations.)

- **21 U.S.C. 853a**

Denial of Federal benefits, such as student loans, grants, contracts, and professional commercial licenses, up to 1 year for the first offense, up to 5 years for second and subsequent offenses.

- **18 U.S.C. 922(g)**

Ineligible to receive or purchase a firearm.

- **Miscellaneous**

Revocation of certain Federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies