

**DRUG FREE SCHOOLS &  
COMMUNITIES ACT**

**UNIVERSITY OF MARYLAND,  
COLLEGE PARK**

**NINTH BIENNIAL REVIEW**

**COVERING THE PERIOD  
FY07: JULY 1, 2006 TO JUNE 30, 2007  
FY08: JULY 1, 2007 TO JUNE 30, 2008**

**DECEMBER 2008**

# DRUG-FREE SCHOOLS AND COMMUNITIES ACT NINTH BIENNIAL REVIEW

December 2008

## I. Introduction

### A. Summary of the Requirements of the Drug-Free Schools and Communities Act Amendments of 1989

#### 1. Mandatory Federal Requirements

As a condition of receiving funding under any federal program, the Drug-Free Schools and Communities Act Amendments of 1989 (the "1989 Act")<sup>1</sup> required that institutions of higher education ("IHE") certify by October 1, 1990 that they had adopted and implemented a drug and alcohol prevention program. This was a one-time certification requirement. On September 15, 1990, the University of Maryland, College Park certified its compliance with the 1989 Act to the U.S. Department of Education.

The 1989 Act requires that each IHE's drug and alcohol program, at a minimum, include:

- a) the annual distribution to employees and students of a written statement which covers five topics, each of which is specifically defined in the implementing regulations; and,
- b) a biennial review by the IHE of its program. The purpose of the biennial review is to determine program effectiveness and implement changes as needed, and to ensure that the disciplinary sanctions imposed on students and employees for drug and alcohol policy violations are consistently enforced.
- c) the Higher Education Opportunity Act (HEOA), signed into law on August 14, 2008, amends the HEA's biennial review provision to require institutions to determine (i) the number of drug and alcohol-related violations and fatalities that occur on campus or as part of institutional activities and are reported to campus officials and (ii) the number and type of institutional sanctions that are imposed as a result of those violations and fatalities. The University has been capturing this data since the HEA's inception, so no changes are required. HEOA Section 107; 20 U.S.C. Section 1011(i).

#### 2. Federal Oversight

Under the 1989 Act, the Secretary of Education is authorized to review annually a representative sample of IHE drug and alcohol prevention programs for compliance with the Act. As part of this review, an IHE is required to provide the Secretary access to personnel records, and any other information requested by the Secretary to review the IHE's adoption and implementation of its program. Upon request, an IHE

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<sup>1</sup> Public Law 101-226, 34 CFR Part 86.

must provide to the Secretary, and to the public, a copy of the writing provided annually to employees and students, as well as a copy of the IHE's biennial review.

**B. The University of Maryland, College Park's Ninth Biennial Review.**

The 1989 Act's implementing regulations do not specify how the biennial review is to be conducted or what criteria should be used to measure the "effectiveness" of the program. However, the regulations do require that "evaluations of program effectiveness ... not solely rely on anecdotal observations."<sup>2</sup> The regulations<sup>3</sup> suggest the use of objective data such as:

- tracking the number of drug and alcohol related disciplinary sanctions imposed;
- tracking the number of drug and alcohol related referrals for counseling or treatment;
- tracking the number of drug and alcohol related incidents recorded in the logs of campus police or other law enforcement officials;
- tracking the number of drug and alcohol related incidents of vandalism;
- tracking the number of students or employees attending self-help or other counseling groups related to alcohol or drug abuse; and
- tracking student, faculty and employee attitudes and perceptions about drug and alcohol problems on campus.

The University's Ninth Biennial Review ("2008 Review") of its drug and alcohol prevention program and policies was conducted primarily by the President's Office of Legal Affairs along with representatives from the Office of the Vice-President of Student Affairs, the Personnel Services Department, the and the University Health Center, the (the "Evaluating Committee"). In compliance with the 1989 Act, the Evaluating Committee determined that since 2006 the Review should consist of three parts:

First, documentation and evaluation of the University's compliance with the 1989 Act's requirement that a written statement be sent annually to each employee and student;

Second, documentation and evaluation of the effectiveness of drug and alcohol prevention programs; and

Third, documentation and evaluation of the enforcement of disciplinary sanctions imposed on students and employees. The 1989 Act requires that similarly situated offenders be treated in a similar manner.

Reports on each part of the 2008 Review were prepared by the departments responsible for that particular

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<sup>2</sup> 55 Fed. Reg. 33597

<sup>3</sup> Id.

aspect of the University's program. To the extent possible, the departments were asked to provide data similar to that suggested in the 1989 Act's implementing regulations.

## **II. Documentation of Compliance with the Act's Annual Notice Requirement**

### **A. Distribution of Written Drug and Alcohol Abuse Policy**

1. Employees: President C.D. Mote, Jr. sent written notice of the University's *Employee Drug and Alcohol Abuse Policy* to all University employees at their individual campus addresses on October 1, 2006 and October 22, 2007 (FY07 and FY08). (For copies of these notices see Exhibits 1 and 2). The University has approximately 13,000 faculty and staff, including full-time, part-time, contractual, and temporary employees.

The Department of Personnel includes the written notice in the orientation packet which each new employee receives when he or she attends the Department's orientation program. As a result of recommendations from the 1992 Biennial Review, the written notice also has been mailed to each new employee, along with other personnel-related documents. This ensures each new employee receives the notice, as attendance at the orientation program is not mandatory.

2. Students: On October 1, 2006 and October 5, 2007 (FY07 and FY08), President Mote sent a written notice of the University's *Student Drug and Alcohol Abuse Policy* via electronic mail to each student who was taking one or more classes for any type of academic credit. (For copies of these notices see Exhibits 3 and 4). Student enrollment for these years was approximately 33,000.

In compliance with Maryland Higher Education Commission ("MHEC") requirements, each student must sign an acknowledgment that he or she has received a copy of a one-page summary of the University's *Student Drug and Alcohol Abuse Policy*. In addition, MHEC requires that a copy of the one page *Policy* be included in admissions packets sent to all prospective students.

As a result of recommendations from the 1992 Biennial Review, the University instituted a system of identifying new students for the Spring and Summer semesters. These students were mailed a copy of the written notice. This has ensured that students who newly enroll in the Spring and Summer semesters receive the same written notice as those who enroll in the Fall.

The University has shifted to sending the notices electronically which has increased the receipt rate. We instituted this because we found that several mailings came back undeliverable; more students maintain their e-mail address than their mailing address; international students can always be reached using this mechanism and by reducing paper mailings, the University not only reduces its expenses, but reduces its environmental impact.

### **B. Content of Written Notice: Employees (Exhibit 1; Exhibit 2)**

Each year the written notices have contained the following five (5) categories of information:

*Prohibited Conduct*: Standards of conduct for employees are defined as required under the Federal Drug

Free Workplace Act of 1988, Public Law 100-690, and the State of Maryland Substance Abuse Policy, as revised by the April 1, 1991 Governor's Executive Order .01.01.1991.16

*Disciplinary Sanctions:* Disciplinary sanctions are defined as required under the State of Maryland *Substance Abuse Policy*, and applicable University personnel policies and penalties contained in Article 64A of the Annotated Code of Maryland.

*Legal Sanctions under Federal, State, and Local Laws:* The federal, state and local sanctions have been updated each year. The description of Federal sanctions for trafficking has been simplified in response to recommendations to make the information more "user friendly."

*Health Risks:* The health risks of alcohol are described in a narrative-format written by a physician at the University of Maryland Medical School, and distributed to all educational institutions by the State Attorney General's Office. This section has been simplified in response to recommendations to present the required information in a more succinct and understandable manner.

*Drug and Alcohol Programs Available on Campus:* Various programs available to faculty and staff are listed and updated, as necessary.

**C. Content of Written Notice: Students (Exhibit 3; Exhibit 4)**

Each year the written notices have contained the following five (5) categories of information:

*Prohibited Conduct:* Standards of conduct are defined by reference to conduct prohibited by the Code of Student Conduct, Resident Life Policies, and Office of Campus Activities Policies.

*Disciplinary Sanctions:* Sanctions are defined by reference to the Code of Student Conduct.

*Legal Sanctions under Federal, State, and Local Laws:* The 2006 and 2007 (FY07 and FY08) notices have maintained the tables as noted during the 1994 Review, as they are clearer and easier to understand.

*Health Risks:* As a result of feedback from students and staff, the health risks table previously included in the brochure was replaced by a narrative format; again, the purpose was to make the information clearer to the reader. Based on a positive response to the changed format, the "Checklist for Identifying Problems" and "What To Do When You Are Concerned About a Friend or Loved One" sections have been continued in the 2006 and 2007 (FY07 and FY08) brochures.

*Drug and Alcohol Programs Available on Campus:* Resources in both the local and University communities -- including the Health Center -- are listed and updated annually, as necessary.

**D. Printing and Mailing Costs**

1. The FY 2007 cost of printing and mailing the student and employee notices was: **\$3949.00.**
2. The FY 2008 cost of printing and mailing the student and employee notices was

\$2967.00.

**III. Effectiveness of Education and Treatment Programs**

- A. Faculty and Staff Substance Abuse Programs' Report (Exhibit 5)
- B. Student Substance Abuse Programs
  - 1. Report by the University Health Center Substance Abuse Program (Exhibit 6)
  - 2. Report by the Department of Residence Life (Exhibit 7)
    - a. Drug and Alcohol Programming: August 2006 to July 2007
    - b. Drug and Alcohol Programming: August 2007 to July 2008
- C. Police Department Drug and Alcohol Programs (Exhibit 8)
- D. Commercial Driver's License Drug and Alcohol Testing Program (Exhibit 9)

**IV. Enforcement of Disciplinary Sanctions**

- A. Student Disciplinary Code Violations: Report by the Office of Judicial Programs (Exhibit 10)
- B. Personnel Disciplinary Actions: Report by the Department of Personnel Services (Exhibit 11)
- C. Drug/Alcohol-Related Crime Statistics: Report by the UM Police Department (Exhibit 12)

# **TABLE OF CONTENTS**

## **For 2008 Review**

<b>EXHIBIT 1</b>	<b>Fall 2006 Letter to Employees</b>
<b>EXHIBIT 2</b>	<b>Fall 2007 Letter to Employees</b>
<b>EXHIBIT 3</b>	<b>Fall 2006 Letter to Students</b>
<b>EXHIBIT 4</b>	<b>Fall 2007 Letter to Students</b>
<b>EXHIBIT 5</b>	<b>Faculty and Staff Substance Abuse Program Report</b>
<b>EXHIBIT 6</b>	<b>University Health Center's Substance Abuse Program Report</b>
<b>EXHIBIT 7</b>	<b>Report from the Department of Residence Life</b>
<b>EXHIBIT 8</b>	<b>Police Department's Drug and Alcohol Programs</b>
<b>EXHIBIT 9</b>	<b>Commercial Driver's License Drug and Alcohol Testing Program Report</b>
<b>EXHIBIT 10</b>	<b>Report from the Office of Judicial Programs</b>
<b>EXHIBIT 11</b>	<b>Report from the Department of Personnel Services</b>
<b>EXHIBIT 12</b>	<b>Drug and Alcohol Related Crime Statistics</b>



# UNIVERSITY OF MARYLAND

OFFICE OF THE PRESIDENT

Main Administration Building  
College Park, Maryland 20742  
301.405.5803 TEL 301.314.9560 FAX

October 1, 2006

## MEMORANDUM

**TO:** All Campus Employees

**FROM:** C. D. Mote, Jr.  
President

**SUBJECT:** Drug-Free Schools and Communities Act

The Drug-Free Schools and Communities Act requires that, as a condition of receiving funds or any other form of financial assistance under any federal program, all institutions of higher education must adopt and implement programs to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees. The University of Maryland has such programs in place. In addition, the University has developed a program to comply with federal regulations that require drug and alcohol education and testing of employees whose job duties require them to have a Commercial Driver's License.

The attached document, Employee Drug and Alcohol Abuse Policy, is a description of University alcohol and drug policies, and provides information about programs available to University employees. The Drug-Free Schools and Communities Act requires annual distribution of this information, as does the Drug-Free Workplace Act of 1988, the State of Maryland Substance Abuse Policy, Executive Order .01.01.1991.16, and the Maryland Higher Education Commission's Policies Concerning Drug and Alcohol Abuse Control.

It is important that all employees are aware of the information contained in the attached document and understand that the University is committed to maintaining a drug-free campus for its employees and students.

Please read this document carefully. If you have any questions, you should call the Office of Legal Affairs on extension 54945.

Enclosure

## EMPLOYEE DRUG AND ALCOHOL ABUSE POLICY

The University of Maryland is dedicated to the pursuit and dissemination of knowledge. The illegal or abusive use of drugs or alcohol by members of the campus community jeopardizes the safety of the individual and the campus community, and is inimical to the academic learning process. The University is therefore committed to having a campus that is free of the illegal or abusive use of drugs and alcohol. In keeping with this commitment, it is the policy of the University that the illegal or abusive use of drugs or alcohol is prohibited on University property or as part of University activities. The University will not hire anyone who is known currently to abuse drugs or alcohol.

In order to inform all University employees of their responsibilities under this policy, and to meet the University's responsibilities as set forth in the Drug-Free Schools and Communities Act Amendments and the Maryland Higher Education Commission's Policies Concerning Drug and Alcohol Abuse Control, the following information is provided:

- I. Prohibited conduct.
- II. Disciplinary sanctions that the University will impose on employees.
- III. Applicable legal sanctions under federal, state and local laws.
- IV. Health risks associated with the use of illegal drugs and the abuse of alcohol.
- V. Drug and alcohol counseling, treatment and rehabilitation programs available on campus.

### I. PROHIBITED CONDUCT

The following policies and rules are consistent with those mandated under the Federal Drug Free Workplace Act of 1988, and the State of Maryland Substance Abuse Policy.

- (1) All employees in the workplace must be capable of performing their duties.
- (2) Employees are prohibited from:
  - (a) Abusing alcohol or drugs;
  - (b) Committing a controlled dangerous substance offense;
  - (c) Committing an alcohol driving offense;
  - (d) Working under the influence of alcohol;
  - (e) Working under the inappropriate influence of prescription drugs or over-the-counter drugs;
  - (f) Working under the influence of a controlled dangerous substance.
- (3) When the University learns or, based on observation or reliable information, suspects that an employee has committed a controlled dangerous substance or alcohol offense at the workplace, the University shall refer the matter to an appropriate law enforcement authority for further investigation and prosecution.

- (4) All employees shall cooperate fully with law enforcement authorities in the investigation and prosecution of suspected criminal violations.
- (5) An employee charged with an alcohol driving offense or a controlled dangerous substance offense shall report a finding of guilty, an acceptance of a plea of nolo contendere, or a probation before judgment to his or her supervisor within 5 work days.
- (6) The supervisor shall report the final conviction of an alcohol driving offense or a controlled dangerous substance offense immediately to the Director of University Human Resources, and in the case of a controlled dangerous substance offense only, to the Director of the Office of Research Administration and Advancement ("ORAA"). In the event it is determined by the University that an employee convicted of a controlled dangerous substance offense which occurred in the workplace was employed in the performance of a federal contract or grant, the Director of ORAA shall notify the sponsoring federal agency within 10 days of receiving notice from the employee or otherwise receiving actual notice thereof.

"Controlled substances" and "illegal drugs" prohibited under this policy are those set forth in Md. Ann. Code Criminal Art., Sections 5-401 through 5-406. "Sensitive employee" means an employee whose classification or position has been designated sensitive by the University. "Sensitive employees" include, but are not limited to, campus police officers and employees whose job duties require them to have a Commercial Driver's License.

## **II. ALCOHOLIC BEVERAGES ON UNIVERSITY PREMISES**

The Stamp Student Union and Campus Programs' Alcohol Policy, found in their Event Management Handbook, controls the use, possession or distribution of alcohol by employees on University premises at University sponsored activities. This policy prohibits the possession or use of alcohol by any person under the age of 21 or the furnishing of alcohol to a person known to be under the age of 21. Alcoholic beverages otherwise may not be possessed, consumed or distributed by employees at University sponsored events occurring on University premises for which a state or local alcohol license is required, unless the sponsor of the event has complied with the Stamp Student Union and Campus Programs' Alcohol Policy guidelines and has obtained advance written approval from the Campus Reservations Office. Copies of the Handbook are available from the Campus Reservations Office in 1133 Stamp Student Union, and at <http://www.union.umd.edu/reservations/handbook.htm>. Questions about state and local alcohol license requirements may be directed to the Campus Legal Office at 405-4945.

## **III. POLICY ON POSSESSION OR USE OF COMMON CONTAINERS OF ALCOHOL**

- (1) Prohibited Conduct

The University prohibits the possession or use of kegs, beer balls, punch bowls, and other common containers of alcoholic beverages of a similar nature on University property, except for possession and use resulting from licensed purchases by the University's Department of Dining Services.

(2) Disciplinary Sanctions

The University may take appropriate legal action, including but not limited to issuance of no access citations or institution of trespass proceedings against any individual found in violation of this policy. If the individual is a student or an employee of the University, additional administrative penalties may also be taken.

**IV. DISCIPLINARY SANCTIONS THAT THE UNIVERSITY WILL IMPOSE ON EMPLOYEES**

- (1) The first time a sensitive employee is convicted of an at-the-workplace alcohol driving offense, or found under the influence of alcohol while at-the-workplace, the employee shall be suspended for 15 days and required to successfully participate in an alcohol treatment program designated by the University's Faculty/Staff Assistance Program ("FSAP").
- (2) A sensitive employee convicted of an off-the-workplace alcohol driving offense; and a non-sensitive employee convicted of any alcohol driving offense shall:
  - (a) On the first conviction be referred to the FSAP, and in addition, be subject to any other appropriate disciplinary actions;
  - (b) On the second conviction, at a minimum, be suspended for at least 5 days, be referred to the FSAP, be required to participate successfully in a treatment program, and in addition, be subject to any other appropriate disciplinary actions, up to and including termination;
  - (c) On the third conviction, be terminated.
- (3) A sensitive employee convicted of any controlled dangerous substance offense shall be terminated.
- (4) A sensitive employee who tests positive for a controlled dangerous substance as a result of a random drug test shall be suspended for 15 work days and be required to successfully participate in a drug treatment program designated by the FSAP.
- (5) A sensitive employee who abuses a legally prescribed drug or an over-the-counter drug shall, on the first offense:
  - (a) Be suspended for 5 work days; and
  - (b) Be required to participate successfully in a drug treatment program designated by the FSAP.

