DRUG-FREE WORKPLACE PROGRAM

PS 509

Purpose: It is the policy of Bellevue University to create a drug-free workplace in conformance with the Drug-Free Workplace Act of 1988 and other applicable federal and state laws. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks, not only to the user, but to all those who work with or otherwise come into contact with the user. The possession, use, or sale of illegal drugs or alcohol on the job may pose unacceptable risks for safe, healthful, and efficient educational operations.

Bellevue University recognizes that its own health and future are dependent upon the physical and psychological well being of its employees. The University's stance against alcohol and drug use in the workplace is not a "moral" issue; but rather, it is an issue that affects the University's health and safety, employees and their families, and monetary resources.

Studies show that drug and alcohol use in the workplace may be the single greatest factor responsible for accidents and injuries, declining productivity, employee theft, and low employee morale.

The Drug-Free Workplace Act of 1988 requires federal contracts and recipients of federal grants to publish and implement a drug-free workplace program. Accordingly, it is the University's right, obligation, and intent to provide and maintain a safe, healthful, and efficient working environment for all of its employees and to protect University property, equipment, and operations from risks associated with drug and alcohol use in the workplace.

1. Definitions:

"Alcohol" means ethanol, isopropanol, or methanol. It includes, but is not limited to beer, wine, and liquor.

"Drug" means a substance considered to be a controlled substance and included in Schedule I, II, III, IV, or V under the Federal Controlled Substances Act, 21 U.S.C. § 801, et seq.

"Drug or Alcohol Test" is defined as any chemical, biological, or physical instrumental analysis, authorized by the University, administered for the purpose of determining the presence or absence of a drug or its metabolites or of alcohol.

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"Illegal drugs" means" any drug: (a) which is not legally obtainable; or, (b) which is legally obtainable, but has not been legally obtained. The term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes. Types of drugs include, but are not limited to:

a. Amphetamines
b. Barbiturates
c. Benzodiazepines
d. Cannabinoids, including marijuana, or their metabolites
e. Cocaine, or its metabolites
f. Methadone
g. Methaqualone
h. Opiates, or their metabolites

"Illegally used drug" is any drug: (a) which is not legally obtainable; or (b) which is legally obtainable but has not been legally obtained. The term includes prescription drugs not legally obtained and prescription drugs not being used for prescribed purposes.

"Legal drugs" include prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

"Specimen" means tissue, hair, or other product of the human body capable of revealing the presence of drugs or alcohol or their metabolites, as approved by the United States Food and Drug Administration or the Agency of Health Care Administration.

"Under the influence" means, for the purposes of this policy, that the employee is affected by drugs or alcohol, or the combination of drugs and alcohol. The symptoms of influence are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a medically-accepted Drug or Alcohol Test, and, in some cases such as alcohol, by a lay person's opinion.

"University property" includes buildings, offices, facilities, land, equipment, and vehicles which are owned, leased, and/or used for University business; and parking lots owned, utilized, and/or leased by Bellevue University or any customer or supplier of Bellevue University. It also includes any other site at which University business is transacted, including University business conducted on-line, whether on or away from University owned or leased property.

2. <u>Prohibited Conduct</u>:

a. Alcohol:

(1) Being under the influence of or in possession of alcohol, as well as, the manufacture, distribution, or dispensation of alcohol by any employee(s) while performing University business or while in or about University property is prohibited.

(2) For purposes of testing for alcohol, an employee's alcohol content must be greater than or equal to .04, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent, for that employee's test to be considered a positive test for alcohol.

(3) This policy does not prohibit the consumption of alcohol at University-sponsored or authorized social functions, such as: banquets, conventions, holiday parties, and/or similar events.

b. Legal Drugs: The use or being under the influence of any legal drug by any employee while performing University business or while in or about University property is prohibited to the extent such use or influence may affect the safety of co-workers or members of the public, the employee's job performance, and/or the safe and efficient operation of University property.

c. Illegal Drugs: The use, sale, manufacture, purchase, dispensation, distribution and/or possession of an illegal or illegally used drug by any employee in or about University property, or while performing University business is prohibited. The presence in any detectable amount of any illegal or illegally used drug in an employee while performing University business or while in or about University property is prohibited.

d. Other Prohibited Conduct:

(1) Switching, adulterating, or committing any other misconduct pertaining to any specimen collected for drug and/or alcohol testing.

(2) Refusing to consent to testing or refusing to submit a specimen for testing. The following conduct will be treated as a refusal to submit to testing.

(a) Failure to provide an adequate sample for testing without a valid medical explanation; or

(b) Engaging in conduct that clearly obstructs the testing process including, but not limited to:

(i) not reporting to the collection site in the time allocated; or

(ii) failure to cooperate with transportation assistance to and from the collection site; or

(iii) failing to remain readily available for a post-accident/incident test.

(c) Conviction under any criminal drug or alcohol statute for a violation occurring in the workplace or occurring while conducting University business or on or about the University property.

(d) Refusing, when required under this policy, to sign the:

(i) Drug and Alcohol Control Policy Acknowledgment Form;

(ii) Drug and Alcohol Testing Consent Form; or

(iii) Rehabilitation Agreement.

e. Employee Compliance: Compliance with this policy is a condition of employment with Bellevue University. Employees who violate this policy may be subject to disciplinary action, up to and including termination, even for a first offense. Employees need to be aware that certain offenses including, but not limited to, possession, sale, or use of drugs or illegally used drugs on or about University property, will result in disciplinary action up to and including termination.

3. Drug Or Alcohol Test: Employees may be required to submit to drug or alcohol testing at a laboratory selected by the University under the following circumstances:

a. "Reasonable suspicion" testing occurs when the University has a reasonable suspicion, based upon specific objective and articulated facts and reasonable inferences drawn from those facts in light of experience that the employee is under the influence of alcohol, a legal or illegal drug. This includes, but is not limited to, the following:

(l) observable phenomena while at work, such as direct observation of drug or alcohol use or abuse or the physical symptoms or manifestations of being impaired due to alcohol or other drug use;

(2) abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(3) report of alcohol or other drug use provided by a reliable and credible source;

(4) evidence that an individual has tampered with a Drug or Alcohol Test during the individual's employment with the University or;

(5) evidence that an employee has manufactured, used, possessed, sold, solicited, distributed, and/of transferred drugs while working or while on University property.

b. "Post Accident" testing may occur when an employee has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident. Following a work place accident, an employee should remain readily available for drug and/or alcohol testing if requested by management.

4. Testing Procedures:

   a. In order to determine if a test is necessary for "reasonable suspicion testing," the employee's supervisor or other University representative should have a witness present stating that the employee's behavior warrants reasonable suspicion testing. If the employee's supervisor or other University representative, together with the witness, both feel that there is reasonable suspicion to believe that the employee may be under the influence of alcohol and/or drugs, the employee's supervisor or other University representative should ask the employee to submit to a Drug and/or Alcohol Test. ***The supervisor initiating the test must immediately notify the Human Resource Department of the testing activity and facility used (contact person/phone number at the testing facility) so that a "chain-of-custody" can be established.***

   b. Employees requested to undergo a test for alcohol or drugs will be transported to a clinic or hospital by a University vehicle or specifically ordered transportation. The employee will be required to sign a consent form authorizing the testing. Refusal to sign the form or refusal to submit to the Drug or Alcohol Test, as well as, any attempt to invalidate or tamper with the test, will subject the employee to disciplinary action, up to and including termination. The University will pay for all costs associated with the testing.

   c. The third party medical provider will require a specimen from the employee for the purposes of valid testing. Typically, breath and/or urine are used. The specimen will be tested for an initial test result.

   d. All initial positive test results for drugs will be confirmed by gas chromatography-mass spectrometry or other medically accepted testing procedures. All confirmed positive test results will be verified by a licensed physician or Medical Review Officer who has contracted with the University through a third party provided (clinic or hospital). An employee may immediately request further confirmation of any breath-testing results by a blood sample if the employee voluntarily submits to give a blood sample taken by qualified medical personnel in accordance with the rules and regulations adopted and promulgated by the Nebraska Department of Health.

5. Confidentiality: The University will maintain the confidentiality of drug and alcohol testing results through an established chain-of-custody through the Human Resource Department, as well as other information obtained during the administration of the drug and alcohol testing policy. An employee's test results will be disclosed under the following circumstances:

   a. to the employee, upon request;

   b. if and as required by law;

   c. to those officers, agents, or employees of the University who "need to know" the information for reasons connected with employment.

6. Reporting Requirements/Convictions:

   a. Employees are required to notify the University within five (5) calendar days of any and all criminal drug statute convictions for violations occurring in the workplace. Appropriate personnel action will be taken against any employee convicted of a criminal drug offense occurring in the workplace. This will take place immediately after the University receives notice of the employee's conviction.

   b. An employee who is arrested or charged with a drug-related offense, but whose guilt or innocence has not yet been established by a court of law, may be subject to immediate suspension or termination, with or without pay, at the discretion of the University.

7. Available Treatment And Counseling:

   a. In an effort to assist employees in overcoming drugs or alcohol dependency, Bellevue University will provide information to interested employees pertinent to obtaining counseling and treatment for chemical dependency. These informal requests will be confidential, except when disclosure is required by law or upon a "need to know" basis for employment-related reasons.

   b. A voluntary referral for drug and/or alcohol counseling and treatment and/or voluntary requests for assistance will not prevent disciplinary action for violations of the University's Drug-Free Workplace Program. The University may condition continued employment on such terms and conditions it deems appropriate, including participation in a counseling or treatment program, follow-up reports regarding participation in such counseling or treatment program, and submission to future periodic Drug or Alcohol Tests. However, if an employee voluntarily requests drug counseling or treatment prior to any conduct that would typically result in disciplinary action or positive result on a Drug or Alcohol Test, the employee will not be disciplined for requesting drug and/or alcohol counseling or treatment.

APPROVED:

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OR: HR

Effective Date: November 15, 2004

This policy statement supersedes PS 9, dated April 17, 2003.

PROHIBITION OF ALCOHOL AND DRUGS

PS 11

Purpose: To establish a policy to prohibit the possession, distribution, or consumption by students of alcohol, unprescribed drugs, or any other substance used to produce intoxication or unnatural states at any University supported event, or on any University supervised property.

Alcohol, or any other drug or substance used to induce intoxication (hereafter referred to as intoxicants), or unnatural states (such as anabolic steroids); being irrelevant and unnecessary to higher education while posing potential health and safety risks to those proximate to their use; are prohibited at any activity involving students either sponsored by, or connected to, the University, or on any property supervised by the University. This Policy supplements, but does not supplant, Section 5301 of the Anti-Drug Abuse Act of 1988.

1. Any reference to the University includes its employees, its campus organizations; or any other agent of the University.

2. The prohibition of intoxicants and other drugs includes their possession, distribution, or use, as well as the state of being intoxicated.

3. University activity refers to any University sponsored function regardless of location; whether it is held on campus, at any location under the supervision or control of the university, or at any other location whether private or public.

4. This policy does not prohibit University students from legally using alcohol privately or from gathering with social acquaintances for that purpose, as long as the conditions above are not violated.

5. This policy does not prohibit any private individual, including students, from renting facilities on University property for the purposes of entertaining family and/or social acquaintances, where alcoholic beverages might be served, consistent with all pertinent federal, state, and local laws and regulations.

6. Sections 4 and 5 may not be used as a means to circumvent the intent or power of this policy, i.e., to claim the right of a private function for what is for all intents and purposes a University activity, just so that alcoholic beverages might be served.

7. Any violation of this policy will result in immediate disciplinary action, up to and including termination for University employees that facilitate or permit violations, and expulsion for

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students guilty of violations, consistent with the provisions of the Employee and/or Student Handbooks. For purposes of this policy, an individual's status as employee takes precedence over all others.

APPROVED:

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OR: PRES

Effective Date: October 2, 1995

This policy statement is new.

University Policies

Cell Phone and Pager Policy

All cell phones and pagers will be turned off when in the classroom or library. If there are job related (on-call) or medical reasons (illness at home) to have the device active in the classroom/library/test center, the device will be set on the "vibrate" ring-mode, and the instructor/librarian/test administrator will be informed. In those cases, if you are contacted, you will need to leave the classroom/library to have the conversation. **Cell phones and pagers are not allowed within the testing rooms of the test center at any time.**

Computer and Network Use Policy

Bellevue University has the responsibility for securing its computing and networking systems (both academic and administrative) to a reasonable and economically feasible degree against unauthorized access, while making the systems accessible for legitimate and innovative uses. This responsibility includes informing persons who use the Bellevue University computer and network systems of expected standards of conduct.

It is important for the user to practice ethical behavior in computing activities because the user has access to many valuable and sensitive resources, and the user's computing practices can adversely affect the work of others. For the good of all users, improper use and abuse of the computer and network privileges cannot be tolerated. Bellevue University authorizes user accounts solely for use in conducting course-related research and University business.

Internet access is granted to all users for the purpose of business or course related research. The Internet is comprised of many individual computers connected to a world-wide network. This network provides each user access to millions of pages of information that are outside the University. Individuals accessing the Internet via a computer located within the University's network are warned that the University has no control over what quality content may be found through even the simplest search of the Internet and that many of the available pages may contain offensive, sexually explicit, or inappropriate material. The University does not condone intentionally accessing this information via the Internet connection.

Any person using a University computer or network resources does so within the bounds of this authorization. Persons who violate this policy will lose their access privileges to Bellevue University's computing systems, pending an evaluation of the alleged violations.

For additional information, a complete copy of the policy statement discussing computer and network use is posted on the bulletin board in the student computer labs. Your use of bellevue.edu and affiliated websites is further subject to the Bellevue University website Terms and Conditions of Use.

Copyright Protection Policy

It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of copyright. These rights, however, are not unlimited in scope. Sections 107 through 121 of the 1976 Copyright Act establish limitations on these rights. In some cases, these limitations are specified exemptions from copyright liability. One major limitation is the "fair use" doctrine, which is given a statutory basis in section 107 of the 1976 Copyright Act. In other instances, the limitations take the form of a "compulsory license" under which certain limited uses of copyrighted works are permitted upon payment of specified royalties and compliance with statutory conditions. For further information about the limitations of any of these rights, consult the copyright law or write to the U.S. Copyright Office.

Drug/Alcohol Policy

Bellevue University subscribes to the Drug-Free Work Place Act of 1988 (34 CFR, Part 85, Subpart F), the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), and section 5301 of the Anti-Drug Abuse Act of 1988.

Bellevue University strictly prohibits the unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of any of its activities. The University will impose disciplinary sanctions on students and employees (consistent with local, state, and federal law), up to and including dismissal from the University or termination of employment and referral for prosecution, for violation of these standards of conduct. Disciplinary sanctions may include the completion of an appropriate rehabilitation program.

Alcohol is medically classified as a depressant drug and is just as dangerous as illegal drugs. Its effects are swift in the short term, and it also can cause long term problems. In the State of Nebraska, possession or use of alcohol as a beverage by an individual under the age of 21 is illegal.

Possession or use of alcohol on University property is prohibited. Empty or partially empty containers, caps, or alcohol related items would be considered possession. All alcohol found in University facilities will be confiscated.

The above policy is included in all pertinent school publications, including faculty, staff, and student handbooks. Members of the University community who may need drug or alcohol abuse counseling may contact the Human Resources Department or the Dean of Students' Office for appropriate referral.

Annual Notification of Student Privacy (FERPA)

Section 99.7 of the Family Educational Rights and Privacy Act (FERPA) requires you be informed of your rights under the FERPA regulations. These student rights include the following: