



OLD DOMINION UNIVERSITY

University Policy

Policy #6603

UNIVERSITY DRUG AND ALCOHOL POLICY

Responsible Oversight Executive: Vice President for Human Resources

Date of Current Revision or Creation: August 9, 2018

A. PURPOSE

The purpose of this policy is to adopt and implement a program to educate the University community about the unlawful possession, use or distribution of illicit drugs or alcohol and the resulting penalties.

B. AUTHORITY

[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[34 Code of Federal Regulations 86 implemented pursuant to the Drug Free Schools and Communities Act, 20 U.S.C. 1145 \(g\)](#)

[Virginia Department of Human Resource Management Policy 1.05 – Alcohol and Other Drugs](#)

C. DEFINITION

Controlled Substance - A drug, substance, or immediate precursor in Schedules I through VI of Chapter 34 of the Code of Virginia, but does not include distilled spirits, wine, malt beverages, or tobacco. [Code of Virginia Section 54.1-3401, as amended](#).

Illicit Drugs - Both controlled substances and imitation controlled substances.

Imitation Controlled Substance - A pill, capsule, or tablet or substance in any form whatsoever that is not a controlled substance, but which is subject to abuse. [Code of Virginia Section 18.2-247, as amended](#).

D. SCOPE

This policy applies to all employees, students, agents, volunteers, employees of affiliated organizations who are paid through the University, and visitors to the institution. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Students include all persons admitted to the University who have not completed a program of study for which they were enrolled; student status continues

whether or not the University's programs are in session. Agents include all persons authorized to represent, act on behalf of, and/or bind the University. Affiliated organizations are separate entities that exist for the benefit of the University through an operating agreement and include the Foundations, the Community Development Corporation, and the Alumni Association. Visitors include vendors and their employees, parents of students, volunteers, guests, uninvited guests and all other persons located on property owned, leased, or otherwise controlled by the University.

E. POLICY STATEMENT

The U.S. Department of Education's Drug Free Schools and Communities Act requires that as a condition of receiving any form of financial assistance under any Federal program, an institution of higher education must adopt and implement a program to prevent the unlawful possession, use, manufacture or distribution of illicit drugs and alcohol by students and employees. This policy establishes the required components of that program.

University policy prohibits the unlawful possession, use, manufacture or distribution of illicit drugs and alcohol, and drunken or disorderly behavior on property owned or controlled by the University or at functions sponsored or supervised by the University. Certain residence halls prohibit the consumption of alcohol. In all other residence halls, students may consume alcoholic beverages in residence hall rooms only if they have reached the legal drinking age of 21. The use or possession of alcoholic beverages in public areas is strictly prohibited unless specifically authorized in writing by the Dean of Students or designee. Employees may only be authorized to consume alcoholic beverages on campus at events approved by the appropriate Dean, Vice President or the President.

Local, State and Federal Legal Sanctions

Those found in violation of this policy are subject to the following local, State and Federal laws:

1. Controlled Substances

a. Distribution

Except as authorized in the [Drug Control Act, Code of Virginia, Chapter 34, Section 54.1-3400 through 54.1-3472, as amended](#), it shall be unlawful for any person to manufacture, sell, give, distribute or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance. [Code of Virginia Section 18.2-248, as amended](#).

Upon conviction, the legal sanctions imposed for a violation of [Code of Virginia Section 18.2-248, as amended](#), are as follows:

- i. With respect to controlled substances in Schedules I or II, imprisonment for not less than five nor more than 40 years and a fine of not more than \$500,000; for a second or subsequent conviction of a violation involving an opiate or synthetic opiate drug (Schedule I or II) a sentence of imprisonment for life, or for any period not less than five years, and a fine of not more than \$500,000 may be imposed. A person convicted of a third or subsequent offense shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively

with any other sentence, and he or she shall be fined not more than \$500,000. [Code of Virginia Section 18.2-248, as amended.](#)

- ii. If a person proves that he or she gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility. . . or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he or she shall be guilty of a Class 5 felony. [Code of Virginia Section 18.2-248, as amended.](#)

Under Virginia law a Class 5 felony conviction carries a punishment of imprisonment not less than one year nor more than 10 years, or a jury or court may confine the convicted violator in jail for not more than 12 months and impose a fine not more than \$2,500, either or both.

A person who violates [Code of Virginia Section 18.2-248, as amended](#) with respect to a controlled substance classified in Schedules III, IV, or V shall be guilty of a Class 1 misdemeanor.

- iii. Under Virginia law a conviction for a Class 1 misdemeanor carries a penalty of confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

A person who violates [Code of Virginia Section 18.2-248, as amended](#), with respect to an imitation controlled substance shall be guilty of a Class 1 misdemeanor.

b. Possession

It is unlawful to knowingly or intentionally possess a controlled substance unless the substance is obtained directly from, or pursuant to, a valid prescription or license of a practitioner or researcher while acting in the course of his or her professional practice or research, or as authorized by the Drug Control Act. [Code of Virginia Section 18.2-250, as amended.](#)

Penalties upon conviction for violations of [Code of Virginia Section 18.2-250, as amended](#), are:

- i. Controlled substances in Schedule I and II of Drug Control Act - Class 5 Felony
- ii. Controlled substances in Schedule III - Class 1 Misdemeanor. (For Class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.)
- iii. Controlled substances in Schedule IV - Class 2 Misdemeanor (confinement in jail for not more than six months and a fine of not more than \$1,000, either or both)
- iv. Controlled substances in Schedule V - Class 3 Misdemeanor (fine of not more than \$500)
- v. Controlled substances in Schedule VI - Class 4 Misdemeanor (fine of not more than \$250)

2. Marijuana

a. Manufacture, Sale/Distribution

Except as authorized in the [Drug Control Act, Code of Virginia, Chapter 34, Section 54.1-3400 through 54.1-3472, as amended](#), it shall be unlawful for any person to sell, give, distribute or possess with intent to sell, give or distribute marijuana. [Code of Virginia Section 18.2-248.1, as amended](#).

Penalties upon conviction for violations of [Code of Virginia Section 18.2-248.1, as amended](#), are:

- i. Not more than one-half ounce of marijuana - Class 1 misdemeanor;
- ii. More than one-half ounce but not more than five pounds of marijuana - Class 5 felony;
- iii. More than five pounds of marijuana - felony conviction punishable by imprisonment of not less than five nor more than 30 years.

If such a person proves that he or she gave, distributed or possessed with intent to give or distribute marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the marijuana to use or become addicted to or dependent upon such marijuana, he or she shall be guilty of a Class 1 misdemeanor. [Code of Virginia Section 18.2-248.1, as amended](#).

Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture such substance, not for his own use is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine of not to exceed \$10,000.

b. Possession

It is unlawful for any person to knowingly or intentionally possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by the Drug Control Act.

Conviction of a violation of [Code of Virginia Section 18.2-250.1, as amended](#) is a misdemeanor penalized by confinement in jail not more than 30 days and a fine of not more than \$500, either or both; any person, upon second or subsequent conviction, is guilty of a Class 1 Misdemeanor. [Code of Virginia Section 18.2-250.1, as amended](#).

3. Alcohol

Alcoholic beverages include alcohol, spirits (mixed drinks), wine (containing 3.2 percent or more of alcohol by weight) and beer (includes ale, porter, stout). [Code of Virginia Section 4.1-100, as amended](#).

a. Sale/Possession

[Code of Virginia Section 4.1-307, as amended](#), provides:

No person shall permit anyone employed by him or her under the age of (i) 18 years to sell, serve or dispense in any manner alcoholic beverages for on-premises consumption, except pursuant to subdivisions 1 through 5 of [Code of Virginia Section 4.1-200, as amended](#), or (ii) 21 years to prepare or mix alcoholic beverages in the capacity of bartender.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

[Code of Virginia Section 4.1-305, as amended](#), states:

No person to whom an alcoholic beverage may not lawfully be sold under [Code of Virginia Section 4.1-304, as amended](#), shall consume, purchase or possess or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of [Code of Virginia Section 4.1-200, as amended](#); (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his or her employment or an order of his or her parent; or (iii) by any State, Federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his or her duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of [Code of Virginia Section 4.1-200, as amended](#).

No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself or herself to consume, purchase or attempt to consume or purchase an alcoholic beverage.

Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor. Upon conviction, (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of [Code of Virginia Section 16.1-278.9, as amended](#). The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection E of [Code of Virginia Section 18.2-271.1, as amended](#), or when referred to a local community-based probation services agency established pursuant to Article 9 ([Code of Virginia Section 9.1-173 et seq., as amended](#)) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted permit under the provisions of this subsection to be (a) monitored by an alcohol safety action program, or (b) supervised by a local

community-based probation services agency established pursuant to Article 9 ([Code of Virginia Section 9.1-173 et seq., as amended](#)) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted permit, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with [Code of Virginia Section 4.1-338, as amended](#).

F. PROCEDURES

1. Disciplinary Sanctions

The University provides all reasonable assistance to faculty, staff, and students in dealing with alcohol and drug problems. For employees, the imposition of disciplinary sanctions will occur only after an individual is offered an opportunity to correct and fails to effectively deal with his or her problem or when the employee has committed a serious violation of University policy or Federal/State law. Students shall be subject to sanctions for violations of the University's [Code of Student Conduct](#).

Disciplinary sanctions for employees and students engaged in the unlawful possession, use, manufacture or distribution of illicit drugs or alcohol on University property are as follows:

a. Employees

Sanctions for such violations for faculty and faculty administrators shall be in accordance with the rules specified in the [Teaching and Research Faculty Handbook or the Administrative and Professional Faculty Guidebook](#). Classified and wage employee sanctions for such violations shall be in accordance with the [Virginia Department of Human Resource Management Policy 1.60 - Standards of Conduct](#).

Specific acts subject to disciplinary action include:

- i. The unlawful or unauthorized manufacture, distribution, dispensation, possession or use of alcohol or illicit drugs in the workplace, on University property or as part of any University activity.
- ii. Reporting to or remaining at work impaired by or under the influence of alcohol or illicit drugs.
- iii. An action that results in criminal conviction for:
 - a) A violation of any criminal drug law, based upon conduct occurring either on or off the workplace, or
 - b) A violation of any alcoholic beverage control law, or law that governs driving while intoxicated, for conduct occurring in the workplace.
- iv. The failure to report to the supervisor, in writing, that the employee was convicted of any offense as defined in item 3 above, within five (5) calendar days of the conviction.

Employees who commit the above offenses are subject to disciplinary action up to and including discharge and participation in a drug abuse assistance or rehabilitation program at the discretion of management.

Supervisors should contact the Director of Human Resources for Strategic Initiatives and Employee Relations for guidance within five days of being notified of an employee's conviction.

b. Students

Student conduct action up to and including conduct expulsion is administered in accordance with the rules specified in the [Code of Student Conduct](#) and [Terms and Conditions of the Housing and Dining Agreement](#). Sanctions may otherwise include (but are not limited to) conduct probation, parental notification (for students under 21 at the time of the notification), and conduct suspension. Mandatory alcohol or drug education and/or counseling may also be a required portion of the sanction.

2. Available Drug or Alcohol Counseling and Treatment

The [Employee Assistance Program \(EAP\)](#) is a confidential counseling, assessment, and referral service developed to help state employees cope with drug and alcohol as well as other problems. Services are confidential and without charge. The EAP is available to all employees and their family members who are enrolled in one of the State's health benefits plans (COVA HealthAware, COVA Care or COVA HDHP). To access the EAP, employees should call the telephone number on the back of the COVA card or contact the Department of Human Resources for the number.

Students who wish help with drug and alcohol problems can contact the Old Dominion University Office of Counseling Services at 683-4401. Counseling services are available to all students on a scheduled appointment basis.

In addition to the above services, many community resources are available to provide services to faculty, staff and students experiencing drug and alcohol problems. The Office of Counseling Services can provide information regarding these services.

A condensed version of this policy, as well as information about risks of alcohol and specific illicit drugs, shall be distributed annually to every Old Dominion University employee and student in accordance with the Drug Free Schools and Communities Act. The Office of Human Resources shall be responsible for distribution to employees, and the Division of Student Engagement & Enrollment Services shall be responsible for distribution to students.

G. RECORDS RETENTION

Applicable records must be retained and then destroyed in accordance with the [Commonwealth's Records Retention Schedules](#).

H. RESPONSIBLE OFFICER

Associate University Counsel

I. RELATED INFORMATION

N/A

POLICY HISTORY

Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

<u>/s/ James D. Wright</u>	<u>August 7, 2018</u>
Responsible Officer	Date

Policy Review Committee (PRC) Approval to Proceed:

<u>/s/ Donna W. Meeks</u>	<u>March 27, 2018</u>
Chair, Policy Review Committee (PRC)	Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

<u>/s/ September Sanderlin</u>	<u>July 17, 2018</u>
Responsible Oversight Executive	Date

University Counsel Approval to Proceed:

<u>/s/ R. Earl Nance</u>	<u>August 7, 2018</u>
University Counsel	Date

Presidential Approval:

<u>/s/ John R. Broderick</u>	<u>August 9, 2018</u>
President	Date

Policy Revision Dates: October 10, 1990; July 23, 2010; August 9, 2018

Scheduled Review Date: August 9, 2023