

**BERKELEY COLLEGE
DRUG & ALCOHOL POLICY
STANDARDS OF CONDUCT FOR ASSOCIATES**

Scope

This Policy governs the conduct of all associates on any College property, in College vehicles, or at any activity sponsored or authorized by the College.¹

Purpose

This Policy is intended to foster an atmosphere in which College-related activities can be conducted safely, appropriately and in a way that reflects well upon the College.

I. PROHIBITED ACTIVITY

A. Inappropriate Use of Drugs or Alcohol

Berkeley College strictly prohibits the possession, sale, use, or distribution of illegal drugs and drug paraphernalia as well as recreational marijuana obtained lawfully; the misuse/abuse or redistribution of other drugs obtained lawfully; and the unauthorized sale or abuse of alcoholic beverages on any College property, in any College vehicle, and at any activity sponsored or authorized by the College.

B. Coercive Behavior

No Berkeley associate shall coerce, even subtly, another Berkeley associate to use drugs or alcohol.

C. Impairment While on College Property or During College Activities

No associate shall be present on or in College property or engage in College-related activities while noticeably impaired due to the use of drugs or alcohol. Associates should be mindful that ingested drugs or alcohol may remain in a person's body long after such ingestion.

II. OBLIGATION TO REPORT

Associates shall notify the Vice President of Human Resources not later than five (5) calendar days after any arrest and/or conviction for a criminal drug/alcohol violation committed on College property or as part any activity sponsored or authorized by the College.

III. SCREENING FOR DRUGS OR ALCOHOL

An associate whose behavior or demeanor might cause a reasonable person to suspect a violation of this Policy may be subject to drug and/or alcohol screening at the discretion of College management. Reasonable suspicion may be based upon recent articulable observations or reports, and reasonable inferences drawn from those observations or reports, concerning the conduct, appearance, behavior, speech, movement or body odors of the associate.

¹ For purposes of this Policy, "College" includes Berkeley College and BES.

A. Reporting Impaired Behavior

Any associate observing another associate who appears to be in violation of this Policy should report that immediately to her/his supervisor and the Human Resources department. Persons authorized to confront an associate who appears to be impaired in violation of this Policy are Campus Operating Officers (COO), direct supervisors, department heads and/or Human Resources. Human Resources and the authorized person will assess the condition of the associate based upon observation. Other associates will be interviewed if necessary. If an alcohol or drug test is deemed necessary for an associate, the associate will be immediately suspended, with pay, until a full evaluation has taken place and an appropriate course of action has been determined. No prior notice shall be required to test for cause.

B. Drug or Alcohol Screening

Screening will be conducted at a facility selected by the College. Alcohol screening will generally be conducted through a calibrated breath scan instrument and/or blood work. Drug testing will generally be done by Urinalysis utilizing a 10-panel test. Any associate who believes that medical circumstances exist that may justify or influence the results of such screening must make such circumstances known to the tester prior to the test.

1. Negative Results

If the associate tests negative, no further disciplinary action will be taken. All test-related files will be kept confidential, separate from the associate's personnel file.

2. Positive Results

An associate testing positive shall be subject to disciplinary action, up to and including termination of employment. An associate who wishes to challenge a positive result must do so exclusively in accordance with the appeal procedures established by the screening laboratory.

C. Refusal to Be Tested

Any associate refusing to submit to testing on a timely basis shall be deemed to have failed the alcohol or drug test. Such associate will be subject to disciplinary action, up to and including termination of employment.

IV. SANCTIONS FOR VIOLATIONS OF STANDARDS OF CONDUCT

Associates who violate this Policy are subject to disciplinary action. Based upon an evaluation of the relevant circumstances, such disciplinary action may include, in the sole discretion of the College and without limitation, warnings (oral or written); mandatory completion of a substance abuse rehabilitation program; suspension (with or without pay); or immediate termination of employment.

V. RIGHTS OF THE COLLEGE

Nothing in this Policy alters the "at will" nature of the employment relationship or limits the discretion of the College to take any lawful action it deems appropriate with respect to the employment of any associate.

VI. APPLICABLE LEGAL SANCTIONS FOR UNLAWFUL POSSESSION, USE, OR DISTRIBUTION OF DRUGS AND ALCOHOL – FEDERAL, STATE AND LOCAL LAW

In addition to disciplinary action, associates remain subject to all applicable local, state, and federal laws which will be fully enforced by the College. What follows are some examples of federal, New York, New Jersey and local laws pertaining to the unlawful possession, use or distribution of drugs and alcohol.

Select Federal Sanctions for Illegal Drugs:

Although most controlled substance offenses are prosecuted under state law, possession can become a federal charge when, for example, either the defendant or the drug crossed state lines, or the offense took place in a national park, federal land, or aboard an airplane.

It is a crime under federal law to knowingly or intentionally possess a controlled substance unless the possession is otherwise permitted by law, e.g., the controlled substance has been obtained pursuant to a valid prescription. The penalties for the conviction of the unlawful simple possession of a controlled substance, sometimes referred to as personal use amounts, are severe. The penalty for the first conviction is up to one year imprisonment, a fine of at least \$1000, or both. The penalty for the second conviction is imprisonment for not less than 15 days but not more than 2 years and a fine of not less than \$2,500. If there have been two or more prior convictions, the penalty is a period of imprisonment between 90 days and 3 years and a minimum fine of \$5,000.

A conviction for the possession of a mixture or substance which contains a cocaine base (such as crack cocaine) is subject to even more severe penalties. The penalty for the conviction of possession of a cocaine based controlled substance is imprisonment for a period of 5 to 20 years and a fine of no less than \$1,000, provided the amount exceeds 5 grams for the first conviction, 3 grams for the second conviction, and 1 gram for each subsequent conviction.

Trafficking in Controlled Substances (Federal):

The Controlled Substances Act provides penalties for the unlawful trafficking of controlled substances, based on the schedule of the drug or substance. Generally, the more dangerous the drug, and the larger quantity involved, the stiffer the penalty. A person caught selling at least five hundred grams, but less than five kilograms of cocaine powder will receive a minimum of five years in prison and may be fined up to \$2 million for the first offense. The same penalty is imposed for the sale of five to forty-nine grams of cocaine base ("crack"). Penalties double with the second offense to ten years in prison and up to \$4 million in fines. Higher penalties apply if an organized group is involved or if a death or injury is associated with the arrest event. Special penalties exist for marijuana trafficking, because it may be traded or grown in substantial amounts. The lower the amounts sold or the fewer plants grown, the lower the sentence. For example, a person selling 1 to 49 plants, or less than a 50 kg mixture may get a maximum sentence of not more than five years, along with a \$250,000 fine.

Federal possession and trafficking convictions can also lead to the forfeiture of property (e.g. your car), the denial of federal benefits such as student loans and grants, and a criminal record which may prevent an individual from entering certain career fields.

See U. S. Department of Justice, Drug Enforcement Administration, Drugs of Abuse: A DEA Resource Guide, 2020 Edition or https://www.dea.gov/sites/default/files/2020-04/Drugs%20of%20Abuse%202020-Web%20Version-508%20compliant-4-24-20_0.pdf.dea.gov/sites/default/files/2020-04/Drugs%20of%20Abuse%202020-Web%20Version-508%20compliant-4-24-20_0.pdf for a complete list of penalties.

Select New York Alcohol Laws:

1. Open Container: Local municipalities usually prohibit the consumption of, or possession of an open container with the intent to consume, an alcoholic beverage in any public place or on private property without the owner's permission. Violations are punishable, for example, by a fine of up to \$150 and/or up to 15 days in jail.

2. Minor in Possession: Any person under age 21 who is found to be in possession of alcohol with the intent to consume it may be punished by a fine of up to \$50 and/or required to complete an alcohol awareness program and/or to provide up to 30 hours of community service. ABC Law 65-c.

3. Providing False Identification: A person under 21 who presents false written evidence of age for the purpose of purchasing or attempting to purchase any alcoholic beverage, may be punished by a fine of up to \$100, community service of up to 30 hours, and/or completion of an alcohol awareness program. ABC Law, 65-b. If a New York driver's license was used as the false identification, the court may suspend the violator's license for 90 days. ABC Law, 65-b.

4. Furnishing Alcohol to a Person Under Age 21: No person may sell, deliver or give an alcoholic beverage to a person actually or apparently under the age of 21. (The Law does not apply to the parent of a minor). Penal Law, 260.20(2) and ABC Law, 65(1). Individuals violating this law are guilty of a Class A misdemeanor, and may be subject to a fine not exceeding \$1000, a term of imprisonment not to exceed 1 year, or both. ABC Law, 130(3) and (5) and Penal Law 70.15(1)(a), 80.05(1).

5. Driving While Intoxicated or Ability Impaired by alcohol or drugs: Driving while intoxicated is a crime. In New York State, the penalties can include loss of driving privileges, fines and possible jail term. The nature and severity of the penalty depend on the amount of alcohol (or drugs) consumed and whether it is a first or subsequent offense. For example:

6. Driving while Ability Impaired by Alcohol (DWAI): Penalties include a mandatory \$300 - \$500 fine; 15 day jail term; and a 90 day license suspension. All 3 penalties increase for subsequent offenses.

7. Driving while Ability Impaired by a combination of alcohol/drugs: Penalties include a mandatory \$500 - \$1,000 fine; a 1 year jail term; a minimum 6 month license revocation. All 3 penalties increase for subsequent offenses.

8. Driving while Intoxicated or Driving while Impaired by a Drug: Penalties include a mandatory \$500 - \$1000 fine; 1 year jail term; minimum 6 month license revocation for DWI and minimum 6 month license suspension for DWAI. All 3 penalties increase for subsequent offenses. For a complete list of New York alcohol and drug driving violations see: <http://www.dmv.ny.gov/alcohol-drug.htm>

Select New York Drug Laws

The unlawful possession, use or distribution of illicit drugs is punished by severe penalties by the State of New York. Typically, the seriousness of the offense and the penalty imposed depend upon the individual drug, the amount of the drug, and whether the drug is possessed or sold.

For example, the possession of four ounces or more of cocaine is a class A-I felony, punishable by up to life in prison and fines of up to \$100,000. The possession of any amount of cocaine, with intent to sell, is a class B felony, punishable by up to 25 years in prison and fines of up to \$30,000. In New York State, any gift of drugs is treated as a sale.

Laws and guidance relating to marijuana use in NY State can be found here:

<https://cannabis.ny.gov/adult-use>

Select New Jersey Alcohol Laws:

N.J.S. 33:1-2 makes it unlawful to directly or indirectly sell alcoholic beverages to any person of any age without a license or special permit issued by the New Jersey Alcoholic Beverage Control Commission. Sale is construed to include admission charges, the sale of cups, the sale of tickets, and/or the acceptance of donations.

N.J.S. 2C:33-17. Anyone who purposely or knowingly offers or serves or makes available an alcoholic beverage to a person under the legal drinking age, or entices or encourages that person to drink an alcoholic beverage, is punishable by a fine of \$1,000 and/or up to six months in jail.

N.J.S. 2C:33-15 makes it unlawful for any person under the legal drinking age to possess or consume any alcoholic beverage in any public place or motor vehicle. Violation of this Section is punishable by a fine of not less than \$500. Punishment may also require participation in an Alcohol Education Program. Further, if the offense is committed in a motor vehicle, the punishment includes the suspension or postponement of driving privileges for six months.

N.J.S. 39:4-51a provides for a \$200 fine for any operator or passenger in a motor vehicle found to be in possession of any open container of an alcoholic beverage, regardless of his/her age.

N.J.S. 33:1-81 makes it an offense, punishable as outlined below, for:

- 1) a person under the legal drinking age to enter a licensed premises with the intent to purchase or consume alcoholic beverages;
- 2) a person under the legal drinking age to purchase or consume alcoholic beverage on a licensed premises;
- 3) a person of legal drinking age to purchase an alcoholic beverage FOR a person under the legal drinking age;
- 4) a person to misrepresent or misstate his/her age in connection with the sale or service of any alcoholic beverage to a person under the legal drinking age.

A person convicted of a violation of any of these provisions is subject to the following penalties: a MINIMUM fine of \$500; a six month loss of driving privilege, and court ordered participation in an Alcoholic Education or Treatment Program.

N.J.S. 39:4-50 et. seq. provides for penalties for any person convicted of operating a motor vehicle anywhere within this state, on public or private property, while under the influence of an alcoholic beverage or any drug (including lawful drugs if the operator's ability to safely operate a motor vehicle is impaired thereby). The severity of the penalties (including fines, imprisonment, loss of driving privileges, community service, the installation of an ignition interlock device, admission to an Intoxicated Driver Resource Center and/or a rehabilitation program) depends on whether the violation is a first or subsequent offense, and/or the person's blood alcohol concentration and/or other factors.

Select New Jersey Drug Laws (See generally, NJSA 2C:35-10 and 2C:35-5):

Laws and guidance relating to marijuana use in New Jersey can be found here:

<https://www.njoag.gov/marijuana/>

Charges for simple possession of **cocaine** are typically third degree offenses, subjecting one to imprisonment for 3-5 years, with a fine not to exceed \$15,000. There are enhanced penalties if one is charged near a school, a public housing facility or park.

If someone is charged with distributing or attempting to distribute 5 ounces or more of **cocaine**, it is a first degree offense, punishable by a term of imprisonment of 10 to 20 years, and a fine not to exceed \$200,000. If one is charged with distributing or attempting to distribute less than 5 ounces, but more than ½ ounce, it is a second degree offense, punishable by a term of imprisonment of 5 to 10 years and a fine not to exceed \$150,000. If one is charged with distributing or attempting to distribute less than ½ ounce of cocaine, it is a third degree offense, punishable by a term of imprisonment of 3 to 5 years, and a fine not to exceed \$15,000.

If a person distributes illegal drugs to a minor or a pregnant woman, the penalty shall be doubled. The penalties also increase if a person distributes or possesses with intent to distribute near school property or a school bus. There are also fines and prison time associated with drug paraphernalia possession and sale.

LOCAL LAWS

NEW YORK

New York City

A New York City ordinance prohibits the possession or sale of controlled substances. A civil penalty of up to \$100,000 may be assessed for a violation of this ordinance.

New York City law also prohibits the consumption of an alcoholic beverage or the possession of an open container containing an alcoholic beverage in any public place, including an automobile parked in a public place. The maximum penalty for a violation of this ordinance is a fine of \$25.00 or imprisonment of up to 5 days.

NEW JERSEY

Newark

A Newark ordinance prohibits the consumption or distribution of alcoholic beverages or the possession of an open container containing an alcoholic beverage in any public place. The maximum penalty for a violation of the ordinance is a fine not to exceed \$1,250, 90 days imprisonment, or 90 days community service.

Woodbridge

A Woodbridge ordinance prohibits the use, distribution or possession with intent to use or distribute drug paraphernalia or the advertising of drug paraphernalia for sale. The maximum penalty for a violation of the ordinance is a fine of \$2000, 90 days' imprisonment and/ or 90 days community service.

Woodland Park

A Woodland Park ordinance prohibits the consumption of alcoholic beverages in a public place (including an automobile on a public street). Violation of this ordinance is punishable by a fine of up to \$500 and a prison term of up to 90 days.

VII. HEALTH RISKS

While drugs have saved lives, greatly reduced human suffering, and improved the quality of life, they may be misused or abused. Psychoactive drugs act on the central nervous system. They may increase activity (stimulants), decrease activity (depressants), or cause hallucinations (hallucinogens). Every drug has multiple effects that depend on the properties of the drug and the dosage taken. When two or more drugs are taken together or in sequence, their effects may be stronger than their additive sum.

The effects of drug use are highly individualized. Drug use or abuse can affect a person's physical, emotional, and social health. It can cause accidents, illnesses, drug dependence, overdose, and even death. It can cause legal problems, economic problems, school or work problems, and relationship problems. Drug use and abuse can cause serious harm.

Below is a partial list of the common health effects of alcohol and drug use and abuse.

Alcohol

- Blackouts
- Gastritis
- Cirrhosis of the liver
- Mouth, throat, and liver cancer
- Heart disease
- Accidents
- In pregnant women, Fetal Alcohol Syndrome (birth defect)

Marijuana

- Confusion and distortion of time perception

- Increased heart rate
- Short-term memory loss
- Loss of motivation
- Damaged lung tissue
- In men, decrease in sex hormones and increase in abnormal sperm
- Tolerance and psychological dependence

Amphetamines

- Elevated blood pressure
- Nervousness, panic states
- Hyperactivity
- Insomnia
- Malnutrition
- Acute psychoses
- Death

Cocaine/Crack

- Painful nosebleeds and nasal erosion
- "Coke blues", an intense depression after the high
- Psychological dependence
- Heart attack
- Seizures, coma, and death
- In pregnant women, miscarriage or stillbirth

Barbiturates

- Confusion
- Loss of coordination
- Psychological and physical dependence
- Seriously impaired driving skills
- Coma and death
- Especially dangerous when taken in combination with other drugs

Opiates

- Loss of judgment and self-control
- Diminished sex drive and sexual performance
- Physical and psychological dependence
- Malnutrition
- Infections, including hepatitis
- Overdose can cause convulsions, coma, and death

Hallucinogens

- Hallucinations
- Panic attacks
- Violent behavior, especially with PCP
- Flashbacks
- Birth defects in users' children
- High dosage can cause convulsions, coma, and death

Synthetic Marijuana (Spice, K2, Moon Rocks)

- Rapid heart rate
- Vomiting
- Agitation
- Confusion
- Hallucinations

Bath Salts

- Chest pains
- Increased blood pressure
- Increased heart rate
- Agitation
- Hallucinations
- Extreme paranoia
- Delusions

Inhalants

- Poor motor coordination
- Confusion
- Impaired vision and memory
- Hallucinations
- Extreme paranoia
- Light headedness
- Drastic weight loss
- Brain damage
- Liver and bone marrow damage
- High risk of sudden death

Anabolic Steroids

- Anxiety
- Aggression and paranoia
- Infertility
- Acne
- Suicide
- Depression
- Organ Failure

VIII. ALCOHOL AND DRUG RESOURCES AND SERVICES

The Human Resources Department is available to assist associates with education, information, counseling, and referral services for alcohol and drugs.

General advisement is provided to associates who need to take the first step in acknowledging the presence of an alcohol or drug related problem. Referrals will be made for treatment programs and to outside agencies, as appropriate.

In accordance with the Department of Education's Drug-Free Schools and Campuses Regulations, which serve to implement the Drug-Free Workplace Act of 1988, it is Berkeley's practice to distribute this Policy to all associates annually.

APPENDIX A: ADDITIONAL RESOURCES

ORGANIZATIONS

Alcoholics Anonymous (AA) is a voluntary fellowship of alcoholics who help themselves and each other get and stay sober. Check the phone book for a local chapter or write the national office at:

475 Riverside Drive
11th Floor
New York, NY 10115
(212) 870-3400
<https://www.aa.org/>

Narcotics Anonymous is a nonprofit fellowship or society of men and women for whom drugs had become a major problem. NA support groups meet regularly. Check the website for local contact numbers or write the national office at:

Narcotics Anonymous
World Service Office
PO Box 9999
Van Nuys, California 91409
Unites States
Telephone: (818) 773-9999
Fax: (818) 700-0700
www.nanj.org

Other NJ Websites

Bergen Area	http://www.bergenarea.org
Capitol Area	http://www.capitalareaofna.org
Central Area	http://www.cjasc.org
Cumberland-Salem Area	http://www.csascna.org
Middlesex Area	http://www.namiddlesexnj.org
Ocean Area	http://www.ocanj.org
Passaic County Area	http://www.passaicarea.org
South Jersey Area	http://www.southjerseyna.org
NJ Regional Convention	http://www.njrcna.com

Our Neighbors

New York RSO	http://www.newyorkna.org
Eastern NY Region	http://www.NAnewyork.org
Connecticut	http://www.ctna.org
Greater Philadelphia RSO	http://www.naworks.org
Mid-Atlantic Region	http://www.marscna.org
Delaware Small Wonder Area	https://www.smallwonderarea.org/
Maryland Freestate	http://www.freestatena.org 800-229-7244 or 302-777-0597

<http://www.NEZF.org> (North East Zonal Forum)

Worldwide

For NA contact information for all other areas around the world, see the Narcotics Anonymous World Services web site at: <http://www.na.org> .

For listed Help Line numbers at NAWS <http://www.na.org/?ID=phonelines-phonelin-toc> .

For listed Websites at NAWS <http://www.na.org/?ID=links-toc> .

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) provides information on alcohol abuse and alcoholism. Contact:

NIAAA
6000 Executive Boulevard
Willco Building
Bethesda, MD 20892-7003
(301) 443-3860
www.niaaa.nih.gov

The National Council on Alcoholism and Drug Dependence, Inc. can refer you to treatment services in your area. Contact:

National Headquarters
12 West 21st Street
8th Floor
New York, NY 10010
(800) 622-2255
www.ncadd.org

The Center for Substance Abuse Prevention (CSAP) works with states and communities to develop comprehensive prevention systems that create healthy communities that include supportive work and school environments, drug- and crime-free neighborhoods, and positive connections with friends and family.

Center for Substance Abuse Prevention
5600 Fishers Lane
Rockwall II
Rockville, MD 20857
(301) 443-0365
www.samhsa.gov/prevention

WEB RESOURCES

National Council on Alcoholism and Drug Dependence

<https://www.ncadd.org/>

National Institute on Drug Abuse

<https://www.drugabuse.gov/>

National Institutes of Health

<https://www.nih.gov/>

National Institute on Alcohol Abuse and Alcoholism

<http://www.niaaa.nih.gov/>

Substance Abuse and Mental Health Administration

<http://www.samhsa.gov/>

Mayo Clinic -Prescription Drug Abuse

<http://www.mayoclinic.org/diseases-conditions/prescription-drug-abuse/basics/definition/con-20032471>