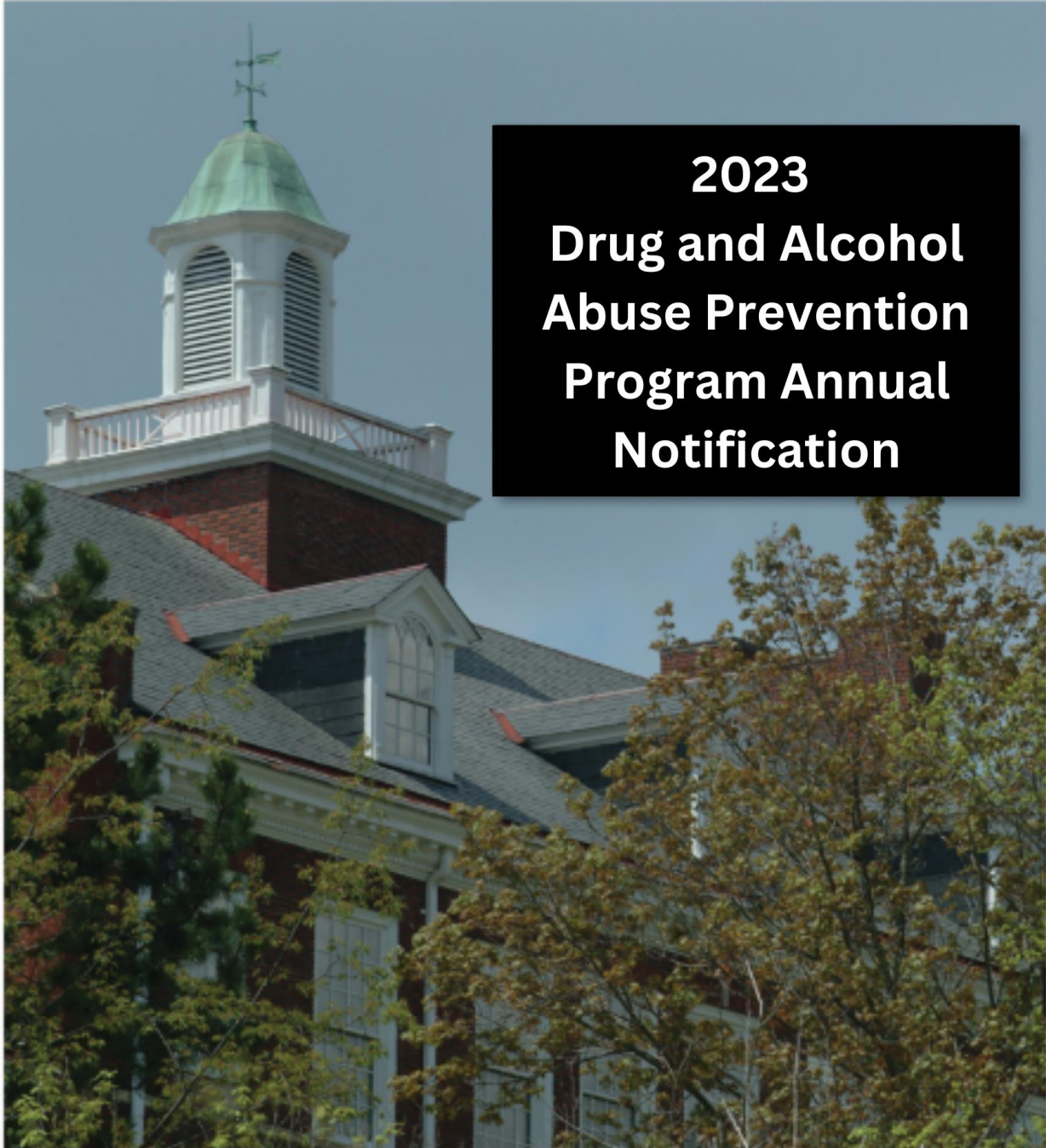


Davis & Elkins College™



**2023
Drug and Alcohol
Abuse Prevention
Program Annual
Notification**

Our Mission: To prepare and inspire students for success and for thoughtful engagement in the world.

Dear Campus Community:

With a genuine, caring concern for our College family, Davis & Elkins is committed to maintaining an academic and social environment conducive to intellectual and personal development, and to maintaining the safety and welfare of all members of the College community.

The misuse and abuse of alcohol and other drugs poses a serious threat to the health and welfare of all individuals. Davis & Elkins believes the solution to alcohol and drug misuse and abuse requires a community approach. To that end, and through this Drug and Alcohol Abuse Prevention Program Annual Notification, the College aims to promote the well-being of everyone on our campus, including visitors. We are also committed to changing the culture that perpetuates the misuse and abuse of alcohol and other drugs.

This notification is sent via email to the campus community, and a copy can be obtained from:

Office of Student Life
100 Campus Drive
Liberal Arts Hall, Suite 102
Elkins, WV 26241
(304) 637-1211

We encourage you to read this information and consider how it can help you and the Davis & Elkins community to prevent drug and alcohol misuse and abuse. Thank you for taking the time to review this information and help make Davis & Elkins College a healthier community for everyone.

Sincerely,

Kate M. Garlick

Dean of Students
Davis & Elkins College
100 Campus Drive
Elkins, WV 26241
Phone: (304) 637-1241

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Davis & Elkins College

2023 Drug and Alcohol Abuse Prevention Program Annual Notification for Students and Employees

INTRODUCTION

The Drug-Free Schools and Campuses Regulations (34 CFR Part 86) of the Drug-Free Schools and Communities Act (DFSCA) require an institution of higher education (IHE) such as Davis & Elkins College (D&E) to certify that it has implemented programs to prevent the abuse of alcohol and use or distribution of illicit drugs both by D&E students and employees on its premises and/or as any part of its activities. Pursuant to the Federal Drug-Free Schools and Communities Act Amendments of 1989, Davis & Elkins College has a drug and alcohol prevention program for its students and employees. The program includes an annual disclosure to each student and to all employees outlining the standard of conduct expected of students and employees in relationship to the possession, use or distribution of illicit drugs and alcohol on campus or as part of any College activity; a description of the applicable legal sanctions under local, state and federal law which may arise from the unlawful possession or distribution of illicit drugs; a description of the health risks associated with the use of illicit drugs; a description of the College's Drug and Alcohol Abuse Prevention Program and a clear statement of the disciplinary sanctions which may be imposed upon students and employees for violations of the standard of conduct. The College's program is reviewed biennially by the Director of Counseling and Wellness in collaboration with Student Life and Human Resources to determine effectiveness and to implement changes (if needed) to ensure that the College's disciplinary sanctions (below) are consistently enforced. Davis & Elkins College is subject to the laws of the State of West Virginia, those of Randolph County and the City of Elkins.

At a minimum, each institution of higher education must annually distribute the following in writing to all students and employees. In addition to this annual notification, D&E distributes this information through the Davis & Elkins College Policy Manual and the Davis & Elkins College Student-Athlete Handbook.

- I. Standards of conduct that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;
- II. A description of the legal sanctions under local, state or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- III. A description of the health risks associated with the use of illicit drugs and alcohol abuse;
- IV. A description of any drug or alcohol counseling, treatment or rehabilitation or re-entry programs that are available to employees or students; and,
- V. A clear statement that the institution will impose disciplinary sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct.

Davis & Elkins College acknowledges its legal obligation to provide this annual notification in compliance with the Drug-Free Schools and Communities Act. Drug and alcohol policies and procedures have been in existence for both students and employees and are so delineated in college publications. The purpose of this notification is to make a good faith effort to comply with the law using information from these publications.

Information from the following is included in this annual notification:

- D&E Policy Manual Volume III – Personnel Policies
- D&E Policy Manual Volume VI – Student Life Policies
- D&E Student-Athlete Handbook
- Local, state and federal mandates regarding drug and alcohol policy and use

Alcohol Policy

Consumption, purchasing, possession, or transportation of any alcoholic beverages by people under the age of 21 on College property or at any College sponsored activity is illegal and a violation of College policy. It is also unlawful and a violation of College policy for any person to knowingly provide alcoholic beverages to anyone under the legal drinking age of 21. Students and employees are expected to obey the law and to take responsibility for their own conduct. In addition, the College maintains the following student regulations regarding alcohol on College property or at any College sponsored activity:

1. The possession and/or use of hard liquor in any form is prohibited;
2. Students (and/or guests) of legal age (21 or over) may possess and consume alcoholic beverages (beer and wine) in the privacy of their own residential unit with the door closed, but only if they reside in a private room, or unit with roommates of legal age;
3. Students (and/or guests) under the legal age of drinking shall not buy, drink, or possess alcoholic beverages;
4. Students (and/or guests) shall not act belligerently, or be visibly intoxicated;
5. The possession and consumption of alcohol shall not infringe upon the privacy or peace of other individuals;
6. Items used for the mass consumption of alcohol (beer bongs, kegs, pony kegs, punch bowls, beer balls, trash cans, or other common containers of alcoholic beverages of similar nature) are strictly prohibited;
7. Possession of an open container or consumption of alcoholic beverages in any area other than individual rooms is prohibited except in specified areas or at special events sponsored by, and posted accordingly by the College;
8. Drinking games in any form are prohibited (beer pong, flip cup, etc.); and
9. Empty alcohol bottles are prohibited from being displayed in the residence halls

All activities at which alcoholic beverages will be present must be approved in advance as follows:

- Student Sponsored Events: Any student or student organization seeking to have an event with alcohol must secure written approval from the Office of Student Life. Prior to approval, the student or student organization must designate a staff or faculty sponsor for the event. The staff or faculty sponsors will attend and assume the responsibility for adhering to College policies and state law and ensuring that appropriate behavior is maintained at all times.
- College Sponsored Events: Any non-student College organization, department, or division seeking to serve alcohol at an event must secure written approval from the President's office.
- Third Party Events: Third party events must be coordinated via the College's Hospitality Services.

With the exception of approved events, the consumption of alcoholic beverages is prohibited in all "public areas" of the College, including athletic facilities and outside grounds. Alcoholic beverages may not be included in organized membership recruitment activities. The advertising, promotion, and sale of

alcohol are prohibited (outside of licensed spaces or events). Individual students and student organizations are responsible for their conduct, and the conduct of their guests and for promoting compliance with West Virginia laws and College policy. College faculty and staff are expected to promote compliance with West Virginia laws and College policies regarding alcohol.

Consequences for Alcohol Policy Violations

Please note that these are the minimum sanctions for alcohol violations per academic year.

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Student Sanctions: Students found responsible for violating the College Alcohol Policy are subject to the jurisdiction of the city of Elkins, Randolph County, and the State of West Virginia, see chart for possible penalties:

Alcohol Use and Abuse Minimum Sanctions			
Violation	1st Offense	2nd Offense	3rd Offense
Underage possession/use of alcohol of any kind	Fine: \$100 Education: Alcohol Awareness Course via Vector	Fine: \$200 Education: In-person meeting with Student Life	Fine: \$300 Education: In-person meeting with Student Life

	Solutions completed within 30 days Counseling Appointment: Hearing Officer's discretion Parent Notification: Hearing Officer's discretion Restorative Justice: 10 hours completed within 30 days	Counseling Appointment: Mandatory Parent Notification: Yes Restorative Justice: 20 hours completed within 30 days	Counseling Appointment: Mandatory Parent Notification: Yes Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed
Providing alcohol to an underage student or person (21 or over)	Fine: \$100 Education: Alcohol Awareness Course via Vector Solutions completed within 30 days Restorative Justice: 10 hours completed within 30 days	Fine: \$200 Education: In-person meeting with Student Life Restorative Justice: 20 hours completed within 30 days	Fine: \$300 Education: In-person meeting with Student Life and Student Success Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed
Hard liquor – possession/use	Fine: \$100 Education: Alcohol Awareness Course via Vector Solutions completed within 30 days Restorative Justice: 10 hours completed within 30 days	Fine: \$200 Education: Alcohol Awareness Course via Vector Solutions Restorative Justice: 20 hours completed within 30 days	Fine: \$300 Education: In-person meeting with Student Life Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed
Visible/public intoxication	Fine: \$100 Education: Alcohol Awareness Course via Vector Solutions completed within 30 days Counseling Appointment: Hearing Officer's discretion Parent Notification: Hearing Officer's discretion Restorative Justice:	Fine: \$200 Education: In-person meeting with Student Life Counseling Appointment: Mandatory Parent Notification: Yes (under 21) Restorative Justice: 20 hours completed within 30 days	Fine: \$300 Education: In-person meeting with Student Life and Student Success Counseling Appointment: Mandatory Parent Notification: Yes (under 21) Restorative Justice: 30 hours completed within

	10 hours completed within 30 days		30 days Social Probation: Until Restorative Justice hours are completed
Possession/consumption of alcohol outside of residential unit	Fine: \$100 Restorative Justice: 10 hours completed within 30 days	Fine: \$200 Education: Alcohol Awareness Course via Vector Solutions Restorative Justice: 20 hours completed within 30 days	Fine: \$300 Education: In-person meeting with Student Life Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed
Items used for the mass consumption of alcohol	Fine: \$100 individual / \$200 suite Restorative Justice: 10 hours completed within 30 days	Fine: \$200 individual / \$400 suite Education: Alcohol Awareness Course via Vector Solutions Restorative Justice: 20 hours completed within 30 days	Fine: \$300 individual / \$600 suite Education: In-person meeting with Student Life and Student Success Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed
Drinking Games / Unauthorized party with alcohol present	Fine: \$100 individual / \$200 suite Education: Alcohol Awareness Course via Vector Solutions completed within 30 days Counseling Appointment: Hearing Officer's discretion (under 21) Parent Notification: Hearing Officer's discretion (under 21) Restorative Justice: 10 hours completed within 30 days	Fine: \$200 individual / \$400 suite Education: Refresher Course and/or in-person meeting with Student Life Counseling Appointment: Mandatory Parent Notification: Yes (under 21) Restorative Justice: 20 hours completed within 30 days	Fine: \$300 individual / \$600 suite Education: In-person meeting with Student Life and Student Success Counseling Appointment: Mandatory Parent Notification: Yes (under 21) Restorative Justice: 30 hours completed within 30 days Social Probation: Until Restorative Justice hours are completed

Display of empty alcohol bottles	Written Warning; removal of items	Fine: \$100 individual / \$200 suite Removal of items	Fine: \$200 individual / \$400 suite Removal of items
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Minimum sanctions for each individual violation may be stacked at the discretion of the Hearing Officer.

Third offenses are independently evaluated based on the circumstance of the incident and may include suspension from the College.

Students who do not complete the mandatory alcohol education course within 30 days, complete restorative justice hours within 30 days, pay fines, or attend recommended counseling will have a hold placed on their account and will not be permitted to register for classes or receive transcripts until the requirements have been met.

Students have the option to receive evaluation and services off campus at their own expense. Documentation of completed education, evaluation and treatment will be required from the community-based counselor. The counselor shall be a certified alcohol and drug counselor in the state of West Virginia or the equivalent if the counseling is completed out of state.

Criminal Penalties for Alcohol

Students and employees found responsible for violating the College Alcohol Policy are subject to the jurisdiction of the city of Elkins, Randolph County and the state of West Virginia. Underage purchase of alcohol is subject to up to a year of probation, or a fine of up to \$500 and/or up to three days in jail or a detention facility. Underage misrepresentation of age for the purpose of purchasing alcohol is subject to up to a year of probation, or a fine of up to \$100 and/or up to three days in jail or a detention facility. Purchase of alcohol for those underage is subject to a fine of up to \$100 and/or up to 10 days in jail. Public intoxication is subject to a fine of up to \$100 and up to 60 days in jail and/or completion of an alcohol education program or counseling. Driving under the influence of alcohol or other drugs, depending on the circumstances, is subject to incarceration of from 24 hours to 15 years, a fine of \$100 to \$3,000, and license suspension of from six months to life.

Alcohol: Health Risks

As students and employees make choices concerning the use of alcohol, it is important to consider the health risks associated with consumption. Alcohol is a depressant, although it may initially stimulate emotions. It slows heart rate and respiration and may cause intoxication, sedation, unconsciousness and death. Alcohol is generally metabolized at the rate of one drink per hour. Mixing alcohol with other drugs can be lethal. Food slows down the absorption of alcohol. Long term alcohol misuse can lead to liver disorders, heart disease, brain damage, sterility, and dependency.

Approximately 1 in 10 drinkers becomes an alcoholic; children of alcoholics are 3 to 4 times more likely to become alcoholics themselves. BAC (Blood Alcohol Concentration) is affected by the amount consumed, rate of drinking, size and gender of drinker, and tolerance. Alcohol impairs judgment, performance, memory, and motor skills. An impaired person is usually unable to recognize his/her own impairment. Tolerance, the need to use more of a substance to maintain the effectiveness of that

substance, occurs with use over an extended period of time. Tolerance increases the risk of alcohol-related problems, including alcoholism and social problems.

Educational Resources and Treatment Options

It is recommended that any organization planning an event at which alcohol will be available to those of legal age, formulate and implement a program to increase alcohol awareness and prevent alcohol misuse for those who will attend. There are a number of resources available on and off campus to provide alcohol education or assistance with alcohol concerns:

1. The Office of Residence Life, including the Assistant Dean of Students, Resident Directors and Resident Assistants, is a valuable resource and provides much of the alcohol education programming on campus.
2. Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and provide information and education about alcohol use.
3. Student Health Services is available to assist individuals with situations involving alcohol that affect the physical well-being of a student.

In addition, full-time employees may utilize the College's Employee Assistance Program at (see page 29 for more information about the College's Employee Assistance Program for Full-Time Employees):

888.293.6948

(TTY Services: 711)

24 hours a day, seven days a week

healthadvocate.com/standard3

Serving Alcohol on Campus

All activities at which alcoholic beverages will be present must be approved in advance as follows:

1. Student Sponsored Events: Any student or student organization seeking to have an event with alcohol must secure written approval from the Office of Student Life. Prior to approval, the student or student organization must designate a staff or faculty sponsor for the event. The staff or faculty sponsor will attend and assume the responsibility for adhering to College policies and state law, and ensuring that appropriate behavior is maintained at all times;
2. College Sponsored Events: Any non-student College organization, department, or division seeking to serve alcohol at an event must secure written approval from the President's Office;
3. Third Party Events: Third party events must be coordinated with and approved by Hospitality Services.

Prior to the event, the sponsoring individual or entity must secure and present any necessary permits and/or insurance to the approving authority listed above. The College will cancel the event if such licensure and/or insurance is not obtained.

At any approved event where alcohol will be served, all policies and procedures set forth in the College's Alcohol Policy must be strictly observed, including the following:

1. No College event can charge for alcohol without proper licensing, whether or not the event is held at the College.
2. All events must terminate by 12:00 a.m. Sunday through Thursday and by 2:00 a.m. on Friday and Saturday.
3. Alcoholic beverages are to be consumed only in the designated room(s) or areas approved for the event.
4. Proof of legal drinking age will be required prior to service.
5. Only those beverages provided by the sponsoring organization of an event are to be consumed. Individuals are not permitted to bring their own beverages to an event.
6. The College encourages low risk use of alcohol. No person will be served alcohol if they are already visibly intoxicated. No alcohol will be given away as a prize.
7. Drinking games will not be allowed.
8. No person may obtain alcohol for another person unless the person is present at the time of service, regardless of whether they are of legal drinking age.
9. Non-alcoholic beverages and food must be made available for the duration of any activity where alcoholic beverages are served.
10. The sponsoring organization is responsible for establishing procedures to provide impaired guests or participants a ride home. Such procedures can include assigning one or more members of each group of guests or participants the responsibility of being a designated driver who will refrain from drinking. Another alternative is to provide a shuttle service.
11. The College will discourage the inappropriate use of alcohol by any member of its community.

Drug-Free Schools and Community Act Compliance

In accordance with state and federal laws, it is illegal for students and employees to possess, use or sell illegal drugs, as well as to abuse or distribute prescription drugs. Prescription drugs are only legal if the individual possessing them is the patient to whom the medication is prescribed. Included in these categories are opiates, barbiturates, amphetamines, marijuana, hallucinogens, illegal steroids, date-rape drugs, and other illegal or prescription drugs. Not only is it unlawful, but the presence, use, and abuse of these drugs within the College is contrary to the intellectual and educational purposes of the College. Possession of these substances may well be an indication that the student or employee is not constructively engaged in academic or work-related endeavors, respectively.

Students: Students arrested for selling drugs or found to be in possession of significant quantities shall be subject to immediate suspension pending final disposition of the case in the College judicial process. If the student is subsequently found responsible by the College, she or he will be expelled from the College.

Use or abuse of illegal and controlled substances is a violation of College regulations. Students violating this policy should expect disciplinary action, which may include suspension from the College. Subsequent violations may result in suspension or expulsion.

The possession of paraphernalia, making no distinction between whether it has or has not been used for its intended purpose, is prohibited. Therefore, students should not possess hookahs, water pipes or bongos, pipes designed to smoke tobacco alternatives, or any other paraphernalia suspected or associated with drug use. Any items found will be confiscated and destroyed by the Office of Public Safety.

CBD use is prohibited on Davis & Elkins campus property, in all college-owned facilities, and in all College-owned or leased vehicles. The promotion, sale and/or distribution of CBD on campus or at any College-sponsored events is also prohibited. Please contact the Office of Public Safety if you should have any questions regarding this matter.

Student Life staff members are available to provide referrals to students with concerns about alcohol or drug use. Referrals to free, on campus counseling services are available and a list of off campus providers is also available. Students assume full financial responsibility for any off-campus services.

Smoking and Tobacco Use Policy

Davis & Elkins College has adopted a smoke-free and tobacco-free campus policy to provide a safe and healthy working and learning environment for our students, faculty, and staff. This policy prohibits both smoking and the use of smokeless tobacco products on campus property, in all college-owned facilities, and in all college-owned or leased vehicles. The possession, promotion, sale and/or distribution of smoking and tobacco products on campus or at any College-sponsored events is also prohibited.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking or vaping device which creates an aerosol or vapor, in any manner or in any form.

“Smokeless tobacco products” means any substance containing tobacco that is not smoked per the definition above including but not limited to chewing tobacco, snuff, snus, dipping tobacco, smokeless tobacco pouches, and dissolvable tobacco such as lozenges.

The College wants to support all individuals who wish to discontinue their smoking and tobacco use. There are a number of resources available to help with any smoking cessation questions or concerns.

1. Counseling and Wellness Services is available to address individual concerns, provide assessments and referrals for counseling treatment on and off campus, and provide information and education about smoking and tobacco use and cessation.
2. Student Health Services is available to assist individuals with questions or concerns and/or provide education regarding the physical effects of smoking and tobacco use.
3. The WV Tobacco Quitline can provides free or low-cost tobacco cessation services to residents of West Virginia including educational materials, coaching calls, and nicotine replacement therapy such as nicotine patches, lozenges, gum and/or medication. To contact the WV Tobacco Quitline call 1-800-QUIT-NOW or 1-877- 966-8784. Individuals can also enroll in this program online at <https://wvtobaccoquitline.com/enroll>.

In addition, full-time employees may utilize the College’s Employee Assistance Program at (see page 29 for more information about the College’s Employee Assistance Program for Full-Time Employees):

888.293.6948
(TTY Services: 711)
24 hours a day, seven days a week

Individuals that violate this policy will be sanctioned with a \$50.00 fine and/or other appropriate campus disciplinary procedures.

Drug Use Consequences

Please note that these are the minimum sanctions for drug use and abuse violations per academic year.

Student Consequences: Students found responsible for violating the College Drug Use and Abuse Policy are subject to the jurisdiction of the state of West Virginia, U.S. Federal Law Enforcement. See charts on pages 30 and 31 for possible penalties.

Drug Use and Abuse Minimum Sanctions			
	1st Offense	2nd Offense	3rd Offense
Convicted for selling/distributing drugs or found in possession of significant quantities	Expulsion from the College		
Use or abuse or possession of illegal controlled substances	Fine: \$100 - \$300 Education: Drug Awareness and Abuse Course via Vector Solutions Counseling Appointment: Hearing Officer's discretion Parent Notification: Hearing Officer's discretion Restorative Justice: 20 hours – 30 hours completed within 30 days	Fine: \$300 - \$500 Education: In-person meeting with Student Life Counseling Appointment: Mandatory Parent Notification: Yes Restorative Justice: 30 hours – 40 hours completed within 30 days	Fine: \$500 - \$700 Education: In-person meeting with Student Life and Student Success Counseling Appointment: Mandatory Parent Notification: Yes Restorative Justice: 40 hours – 50 hours completed within 30 days Possible Expulsion from the College
Possession and/or presence of paraphernalia	Fine: \$100 - \$300 Restorative Justice: 20 hours – 30 hours completed within 30 days	Fine: \$300 - \$500 Education: Drug Awareness and Abuse Course via Vector Solutions Restorative Justice: 30 hours – 40 hours completed within 30 days	Fine: \$500 - \$700 Education: In-person meeting with Student Life Restorative Justice: 40 hours – 50 hours completed within 30 days
CBD use	Fine: \$50	Fine: \$100	Fine: \$200

	Restorative Justice: 10 hours completed within 30 days	Education: Drug Awareness and Abuse Course via Vector Solutions Restorative Justice: 20 hours completed within 30 days	Education: In- person meeting with Student Life Restorative Justice: 30 hours completed within 30 days
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Minimum sanctions for each individual violation may be stacked at the discretion of the Hearing Officer.

Third offenses are independently evaluated based on the circumstance of the incident and may include suspension from the College.

Students who do not complete the mandatory drug education course within 30 days, complete restorative justice hours within 30 days, pay fines, or attend recommended counseling will have a hold placed on their account and will not be permitted to register for classes or receive transcripts until the requirements have been met.

Students have the option to receive evaluation and services off campus at their own expense. Documentation of completed evaluation and treatment will be required from the community-based counselor. The counselor shall be a certified alcohol and drug counselor in the state of West Virginia or the equivalent if the counseling is completed out of state.

Those who are found to have violations related to the manufacture, delivery, possession with intent to manufacture or deliver a controlled substance or other violations that would be considered a felony offense will receive a minimum of parental notification and immediate suspension and or dismissal.

Criminal Penalties for Psychoactive Drugs

Students and employees found responsible for violating the Davis & Elkins College Drug Use and Abuse Policy are also subject to the jurisdiction of the state of West Virginia and U.S. Federal Law Enforcement.

Penalties for the use and possession of illicit drugs, along with illegal use of prescription drugs, vary greatly. Possession of a larger amount of a drug will typically result in charges of distribution, leading to much stiffer penalties. A federal or state drug conviction may disqualify a student for federal student aid and a criminal record for drug possession may prevent professional licensing and/or certification.

Under West Virginia state law, conviction for possession of a controlled substance is subject to incarceration for up to six months and/or a fine of up to \$1,000. Sentences can be double for second or subsequent offenses. Manufacture, possession, or delivery with the intent to manufacture or deliver a controlled substance is subject to, depending on the substance classification, up to 15 years imprisonment and/or a \$25,000 fine upon conviction. Sentences can be doubled for subsequent offenses and mandatory prison terms result for convictions involving distribution of controlled substances within 1,000 feet of a private or public school or a private or public college, junior college or university. Mandatory prison terms can also result for convictions involving distribution of controlled substances to minors.

Federal sanctions for illegal possession of a controlled substance vary with the conviction, substance possessed, and the quantity of the substance. According to the Title 21 Controlled Substances Act, possession of a controlled substance could be subject to:

- up to a year in prison and/or a minimum \$1,000 fine
- with a prior conviction, 15 days to up to 2 years in prison and a minimum \$2,500 fine
- with two or more prior convictions, 90 days to up to 3 years in prison and a minimum fine of \$5,000

See the charts on pages **30 and 31** for more detailed information regarding federal drug trafficking penalties.

In situations where drugs and/or drug paraphernalia, weapons, or other dangerous or potentially dangerous items are found in plain view, Office of Public Safety officers may perform a room or workplace search within legal limits.

If the College receives a report of a potential policy violation, particularly a violation of the College's drug, health and safety, and/or weapons and explosive materials policies, the Dean of Students, Director of Human Resources or Vice President for Academic Affairs or his/her designee may authorize a search in writing. The Dean of Students and/or Assistant Dean of Students must be present at any such residence life room search. Only Office of Public Safety Officers can perform residence life room searches.

Drug Use and Abuse: Health Risks

As students and employees make choices concerning the use and misuse of drugs and controlled substances, it is important to consider the health risks associated with consumption.

Cocaine and *Crack* are powerful central nervous system stimulants that constrict blood vessels, dilate pupils, increase blood pressure, and elevate heart rate. Cocaine use may induce restlessness, irritability, anxiety, paranoia, seizures, cardiac arrest, respiratory failure, and death. Cocaine is extremely addictive, both psychologically and physically. Great risks exist whether cocaine is ingested through inhalation (snorting), injection, or smoking. Davis & Elkins College Policy Manual: Volume VI Page - 50 Compulsive cocaine use may develop even more rapidly if the substance is smoked, and smoking crack cocaine can produce particularly aggressive paranoid behavior in users.

Date Rape Drugs (Rohypnol, trophies, roofies, GHB, Ketamine, etc.) may incapacitate a person, particularly when used with alcohol. Rohypnol and GHB (gammahydroxybutyrate) are characterized as "date rape" drugs because they incapacitate users, thereby increasing vulnerability to sexual assault and other crime. Sedation, relaxation, and amnesia are associated with Rohypnol use. Rohypnol may be psychologically and physically addictive and can cause death if mixed with alcohol or other depressants. GHB usage may result in coma and seizures and when combined with methamphetamine appears to cause an increased risk of seizure. Combining use with other drugs such as alcohol can result in nausea and difficulty in breathing. GHB may also produce withdrawal effects, including insomnia, anxiety, tremors, and sweating. Ketamine may induce feelings of near-death experiences.

Ecstasy (X, Adam, MDMA, XTC, etc.) has amphetamine-like and hallucinogenic properties. Its chemical structure is similar to other synthetic drugs known to cause brain damage. Ecstasy use may cause

psychological difficulties including confusion, depression, sleep problems, drug craving, severe anxiety, paranoia, and even psychotic episodes. Similar difficulties may occur weeks after taking MDMA. Physical symptoms such as increases in heart rate and blood pressure may result from use of such substances. Other physical symptoms include muscle tension, blurred vision, nausea, rapid eye movement, and involuntary teeth clenching.

Hallucinogens (acid, PCP, LSD, psilocybin [mushrooms], dextromethorphan [dxin]) are among the most potent mood-changing chemicals and may produce unpredictable effects that may impair coordination, perception, and cognition. Some LSD users experience flashbacks, often without warning, without the user having taken the drug again. Violence, paranoia, delusions, hallucinations, convulsions, coma, cardiac arrest, and respiratory failure may result from hallucinogen use.

Marijuana (pot, grass, hash, cannabis sativa, etc.) may impair memory, attention, coordination, and learning. Short-term effects of smoking marijuana may include problems with memory, learning, distorted perception, difficulty in thinking and problem solving, loss of coordination, increased heart rate, anxiety, and panic attacks. Persons who smoke marijuana regularly may have many of the same respiratory problems as tobacco smokers, including daily cough and phlegm, chronic bronchitis, and more frequent chest colds. Because users of marijuana deeply inhale and hold marijuana smoke in their lungs, they incur a higher risk of getting lung cancer.

Narcotics (heroin, opium, morphine, codeine, pain medication [Demerol, Percodan, Lortab, etc.]) may produce temporary euphoria followed by depression, drowsiness, cognitive impairment, and vomiting. Narcotic use may cause convulsions, coma, and death. Tolerance and dependence tend to develop rapidly. Using contaminated syringes to inject drugs may result in contracting HIV and other infectious diseases such as hepatitis.

Nicotine (tobacco, cigarettes, cigars, chewing tobacco, nicotine chewing gum and patches) is highly addictive, and, according to the Surgeon General, is a major cause of stroke and is the third leading cause of death in the United States. Over time, higher levels of nicotine must be consumed to achieve the same effect. Nicotine consumption results in central nervous system sedation and after initial activation may cause drowsiness and depression. If women smoke tobacco and also take oral contraceptives, they are more prone to cardiovascular and cerebrovascular diseases than are other smokers. Pregnant women who smoke tobacco run an increased risk of having stillborn or premature infants or infants with low birth weight.

Sedative-hypnotics (depressants, Quaaludes, Valium, Xanax, etc.) depress central nervous, cardiovascular, and respiratory functions. Sedative-hypnotic use may lower blood pressure, slow reactions, and distort reality. Convulsions, coma, and death are outcomes associated with sedative-hypnotic use. Consuming sedative-hypnotics with alcohol is especially dangerous.

Steroids (anabolic-androgenic) may permanently damage liver, cardiovascular, and reproductive systems. Possible side effects include liver tumors, cancer, jaundice, fluid retention, and hypertension. In men, steroids may cause Davis & Elkins College Policy Manual: Volume VI Page - 51 shrinking of testicles, reduced sperm count, infertility, baldness, breast development, and increased risk for prostate cancer. In women, steroid use may cause growth of facial hair, male-pattern baldness, menstrual changes, enlarged clitoris, and deepened voice.

Stimulants (amphetamine, methamphetamine, speed, crystal, crank, Ritalin, ephedra, caffeine, various over-the-counter stimulants and diet aids) are powerful central nervous system stimulants that may increase agitation, physical activity, and anxiety. Stimulants may decrease appetite, dilate pupils, and cause sleeplessness. Dizziness, high blood pressure, paranoia, mood disturbance, hallucination, dependence, convulsions, and death due to stroke or heart failure may also result from use.

Synthetic Drugs (spice, K2, bath salts, etc.) are synthetic substances produced in a laboratory. They are chemical cousins of other drugs. They are often found in retail stores and are marketed as “herbal incense,” “plant food” or “bath salts.” They generally come in small tea bag size packets and are labeled “not for human consumption” and are marketed as a “legal high.” These substances have been outlawed in West Virginia. These may cause agitation, extreme nervousness, hallucinations, seizures, paranoia, and violent behaviors which can be extremely dangerous to the person consuming them and to those around them. Suicide attempts are very common among people who consume these substances. Emergency treatment is critical if you suspect that someone has ingested them. The packaging should be taken to the emergency department if available.

(Source: National Institute on Drug Abuse, National Institutes of Health, www.nida.nih.gov)

Amnesty Policy

As partners with the College in promoting health and safety, all students have a responsibility and obligation to seek immediate assistance for any student known to be experiencing a serious health crisis, including one resulting from high risk drinking or the abuse of other drugs.

As such, students who seek assistance on behalf of a peer and are themselves under the influence of alcohol or drugs in violation of this Policy will not receive a Code of Conduct sanction for this action. Additionally, the student who is the subject of the report will not receive a Code of Conduct sanction for this action.

Additionally, individuals may be hesitant to report conduct which they have experienced or witnessed, to participate in an investigation and/or grievance proceeding, or to speak truthfully because they fear College disciplinary action due to their own consumption of alcohol or other drugs at or near the time of the incident. While the College does not condone illegal drinking or drug use, the College may extend limited immunity from College sanctioning in the case of illegal drug and alcohol use to victims, witnesses and those reporting incidents and/or assisting the victims of sexual offenses, provided that they are acting in good faith in such capacity.

The College will provide students with the assistance needed to respond to high risk drinking and other drug abuse. Students may seek such assistance by contacting the Office of Student Life or the Office of Public Safety. After the crisis is resolved, the student who experienced the health crisis, as a result of alcohol intoxication or other drug consumption, will be referred to the substance abuse prevention and treatment specialist. The substance abuse prevention and treatment specialist will provide further assessment, substance abuse education, counseling, recommendations and/or referral as applicable to the individual student’s need.

Educational Resources and Treatment Options

There are a number of resources available on and off campus to provide drug education or assistance with drug use concerns:

1. The Office of Student Life, including the Assistant Dean of Students, Resident Directors and Resident Assistants, is a valuable resource and provides much of the drug education programming on campus.
2. Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and provide information and education about drug use.
3. Student Health Services is available to assist individuals with situations involving drugs.

In addition, full-time employees may utilize the College's Employee Assistance Program at (see page 29 for more information about the College's Employee Assistance Program for Full-Time Employees):

888.293.6948
(TTY Services: 711)
24 hours a day, seven days a week

healthadvocate.com/standard3

Athletic Department Alcohol Policy

The Athletic Department expects all Student-Athletes to make responsible and educated decisions regarding the use of alcohol.

Underage drinking is against the law. Any Student-Athlete under the legal drinking age of 21 found in possession of alcohol or under the influence of alcohol may face disciplinary actions in accordance with the policy outlined in the Davis & Elkins College Policy Manual.

Student-Athletes of the legal drinking age assume all risks involved in the consumption of alcohol and must adhere to all policies outlined in the Davis & Elkins College Policy Manual.

In addition, alcohol violations may result in disciplinary action from the Athletic Department as outlined in the Davis & Elkins College Student-Athlete Disciplinary Guidelines and those outlined in specific team policies related to alcohol consumption.

Davis & Elkins College head coaches may enforce an additional penalty for an alcohol policy violation in accordance with their team policies and procedures. Please refer to the Davis & Elkins College Policy Manual online at <https://www.dewv.edu/about/compliance-ethics> for complete details of additional rules and disciplinary actions of the College.

Athletic Department Illegal Drug Policy and Testing

NCAA Athletics Drug Testing

As per NCAA regulations, Davis & Elkins College Student-Athletes may be chosen to submit to an NCAA administered drug test.

- If the NCAA tests you for the banned drugs listed in NCAA Bylaw 31.2.3.1 and you test positive (consistent with NCAA drug-testing protocol), you will be ineligible for further participation in

regular-season and postseason competition in all sports in accordance with the provisions in NCAA Bylaw 18.4.1.5.1.

- A Student-Athlete who tests positive shall be charged with a loss of a minimum of one season of competition in all sports if the season of competition has not yet begun for that Student-Athlete or a minimum of the equivalent of one full season of competition in all sports if the Student-Athlete tests positive during his or her season of competition.
- If a Student-Athlete tests positive a second time for the use of any drug, other than a “street drug” as defined in NCAA Bylaw 31.2.3.1, he or she shall lose all remaining regular season and postseason eligibility in all sports. In addition, the penalty for missing a scheduled drug test is the same as the penalty for testing positive for the use of a banned drug.
- The list of NCAA banned drugs is subject to change and Davis & Elkins College and the Student-Athlete shall be held accountable for all banned drug classes on the current list.

Davis & Elkins College Department of Athletics Drug Testing

Davis & Elkins College believes that random drug testing and testing based on reasonable suspicion are appropriate to ensure the health, safety and well-being of our Student-Athletes, to affirm compliance with applicable rules and regulations, and to identify Student-Athletes who are improperly using drugs and to assist them before they harm themselves or others.

Consent to Participate

As a condition of participation in intercollegiate athletics at Davis & Elkins College each Student-Athlete will be required to sign a consent form agreeing to undergo drug testing. Failure to consent to or comply with the requirements of this policy may result in suspension from participation or termination of eligibility to participate in intercollegiate athletics at Davis & Elkins College. Additionally, Student-Athletes will be given an opportunity to ask any questions regarding the information contained in the policy, the testing program, or other related issues prior to signing the consent form.

Methods of Selection

- **Unannounced Random Testing:** All Student-Athletes listed on the roster and who have signed the consent form are eligible to be randomly selected for drug testing, including red shirts, academically ineligible and injured players. The Director of Athletics and Assistant Athletic Director for Sports Medicine, in witness of the Senior Women’s Administrator, will select 10% of the Student-Athlete body to be tested randomly. This will be done once during the fall semester and once during the spring semester. Student-athletes will be selected randomly based on the drawing of a number assigned to each student-athlete at the beginning of each school year.
- **Coaches Testing:** All Student-Athletes for a team may be subject to unannounced testing at any time when a Head Coach elects to have all members of his or her team tested during the school year. This testing can be conducted at any time during the academic year and will be required of all members of the Head Coach’s sport. This testing does not need reasonable suspicion.
- **Reasonable Suspicion Screening:** A Student-Athlete may be subject to testing at any time when the Director of Athletics, coach, athletic trainer, or faculty/staff member determines there is individualized reasonable suspicion to believe the Student-Athlete may be using a prohibited substance. Such individualized reasonable suspicion may be based on objective information

from any source deemed reliable by the Director of Athletics, Head Coach, and Assistant Athletic Director for Sports Medicine including, but not limited to: 1) observed possession or use of substances appearing to be prohibited drugs, 2) direct arrest/conviction for a criminal offense related to alcohol or the possession or transfer of prohibited drugs or substances, and/or student conduct violation (this may include testing of the roommate or suite mate of student-athlete arrested or convicted), 3) observed abnormal appearance, conduct or behavior reasonably interpretable as being caused by the use of prohibited drugs or substances, 4) postings on social media, unusual patterns of absence from training or competition, decrease in class attendance, significant decline in GPA, increased injury or illness rate, extreme changes in motivation levels, emotions and moods. A Drug Testing Reasonable Suspicion Reporting Form must be completed outlining all potential objective sign(s) the person reporting believes warrants the reasonable suspicion drug test. Upon receipt of the Drug Testing Reasonable Suspicion Reporting Form, the Director of Athletics, Head Coach, the Assistant Athletic Director for Sports Medicine and the Vice President for Student Affairs shall determine whether there is reasonable cause to suspect that the student-athlete is engaged in prohibited drug use. Individualized reasonable suspicion means: If the available facts were conveyed to a reasonable person unfamiliar with the student-athlete or the athletics program, that person would conclude that it is more likely than not that there is a factual basis for determining that the student-athlete is using a prohibited drug. If individualized reasonable suspicion is found to exist, the Director of Athletics and/or Assistant Athletic Director for Sports Medicine will meet with the student-athlete. At that meeting the student-athlete will be provided written notice specifying the date, time, and place at which the test will be conducted unless the student-athlete provides an explanation for his/her behavior which is satisfactory to the Director of Athletics. The test will be conducted in accordance with the provisions of the screening process. The consequences of failure to participate in or cooperate with such testing and the consequences of impermissible drug use discovered through such testing shall be the same as the described sanctions of this policy.

- **Follow-up Testing:** A Student-Athlete who has returned to participation in intercollegiate athletics following a positive drug test may be subject to follow-up testing throughout the remainder of their athletic eligibility and shall be financially responsible for all tests.

Notification and Reporting for Collection

The Student-Athlete will be notified of and scheduled for testing by the Director of Sports Medicine. The Student-Athlete will be notified via email (with a phone follow-up if no confirmation of receipt of the email is received within 4 hours), of the date and time to report to the collection station. No specific time period is required for notification of Student-Athletes prior to the administration of any drug tests.

A Student-Athlete who refuses to provide an adequate urine sample during the testing process, attempts to alter or substitute his/her urine sample, or fails to show up at the designated time, shall be deemed in violation of this policy and will be cause for the same actions as a positive drug test result.

Specimen Collection Procedures

1. Upon entering the collection station, the student-athlete will provide student identification, the collector/validator and test observer will identify the student-athlete and the student-athlete will officially enter the station. Test observers will be of the same gender as the student-athlete.

2. The student-athlete will be required to sign in and out of the collection station.
3. Student-athlete will be provided a collection container.
4. Student-athletes will be required to empty all pockets, remove any outerwear and leave any bags or personal items outside of the collection area.
5. The student-athlete will rinse and dry hands, with water only, prior to urination, and wash with soap and water following urination.
6. The student-athlete will enter the collection room and will close the door behind them. The student-athlete will provide the necessary specimen volume of at least 45 mL. Following completion of the required 45mL specimen, the student-athlete should not flush the toilet.
7. The validator will pour 30mL of the volume collected into a separate specimen cup, and the student-athlete and validator will sign/initial affirming this is their sample.
8. Once a specimen is provided, the student-athlete is responsible for keeping the collection beaker closed and controlled.
9. Fluids provided to student-athletes who have difficulty voiding must be from sealed containers (approved by the collector) that are opened and consumed in the station. These items must be caffeine- and alcohol-free and free of any other banned substances.
10. If the specimen is incomplete, the student-athlete must remain in the collection station until the sample is completed. The student-athlete will be provided a new collection container once ready for another attempt.
11. The collector/validator, will sign a chain of custody form and specimen bag will be sealed and sent to the laboratory of Absolute Assurance Drug Testing LLC, the Davis & Elkins College Drug Testing Agency.
12. If the lab results are non-negative or appear to be positive. The student-athletes will be contacted by the Medical Review Officer and explain if re-test options are available.

Medical Exception Process

The college recognizes that some banned substances are used for legitimate medical purposes. Accordingly, exceptions can be made for those Student-Athletes with a documented medical history demonstrating a need for regular use of such a substance. Student-Athletes are required to inform their athletic trainer of all medications (prescribed or over-the-counter) that they are taking prior to participating in athletic contests for Davis & Elkins College. The Student-Athlete must provide a letter from the prescribing physician that documents the Student-Athlete's medical history and the need for regular use of that drug. The letter must also include diagnosis (including appropriate verification) and dosage information.

Participation Refusal

Any Student-Athlete who refuses or otherwise fails to participate in the testing program by not signing the consent form or not providing a specimen where and when directed to do so shall be denied participation in intercollegiate athletics. A non-consent or failure to attend a drug test is considered a

positive result. Denial of participation will be automatic and effective upon written notice to the Student-Athlete, Head Coach, and Director of Athletics.

Positive Drug Test Disciplinary Action for Tests Administered by Davis & Elkins College Athletics

If a Student-Athlete has a confirmed positive test result he/she will be notified in writing of the immediate suspension of athletically related activities. The Student-Athlete will be required to attend a meeting with the Head Coach, Faculty Athletic Representative and Director of Athletics.

Guidelines for Positive Drug Test Offenses

(Athletic Department disciplinary action may be greater than the offense structure below depending on the seriousness of the incident):

- The penalty for a positive test for a performance-enhancing drug (PED) is strict and automatic: student-athletes lose one full year of eligibility for the first offense (25 percent of their total eligibility) and are withheld from competition for 365 days from the date of the test. A second positive test for a PED results in the loss of all remaining eligibility.
- The penalty for a first positive test for a substance in the "street drug" class as defined in NCAA Bylaw 31.2.3.1, results in student-athletes being withheld from competition for 50% of the championship segment in all sports in which the student-athlete participates. If the positive test occurs following the championship segment or with less than 50% of the championship segment remaining, the suspension will carry over to the following season. During the suspension, the head coach has discretion to determine if the student-athlete may attend practices and team meetings. If the student-athlete is unable to participate due to injury or any other reason, the suspension will be served once the student-athlete is cleared for participation. In addition, all athletically-related financial aid could be withdrawn at the close of the academic semester or the remainder of the student-athlete's career. A parent/guardian will be notified that their son or daughter has violated the drug policy, regardless of age. A second positive test for a "street drug" as defined in NCAA Bylaw 31.2.3.1, results in the loss of all the student-athlete's remaining eligibility. All athletically-related financial aid will be withdrawn at the close of the academic semester and for the remainder of the student-athlete's career. A parent/guardian will be notified that their son or daughter has violated the drug policy, regardless of age.
- A student-athlete who is involved in a case of clearly observed **tampering** with a D&E Athletics drug test, shall be declared ineligible for further participation in postseason and regular-season competition during the time period ending two calendar years (i.e., 730 days) after the student-athlete was involved in **tampering** with a drug test.
- If a student-athlete who is selected for a D&E Athletics drug test, does not show up for testing or refuses to provide a sample, he or she will be penalized as if there were a positive drug test result for a PED.
- ***Davis & Elkins College head coaches may enforce additional penalties for an initial positive drug test in accordance with their team policies and procedures. Following the first positive test, the student-athlete is financially responsible to be re-tested 45 days after the initial testing date. The results of this re-test must be negative or at least show evidence of no drug use or it***

will be considered as the second positive offense. Once a negative screen is obtained, any subsequent positive screens will be treated as an additional offense. All student-athletes who have tested positive for a banned substance must undergo re-entry testing and the results report as negative before the student-athlete is allowed to return to competition and/or practice. No student-athlete will be allowed to return to competition and/or practice while the results of the most recent re-test are still positive for the identified substance. After serving the imposed Athletic Department suspension, the student-athlete is financially responsible to undergo re-testing to determine if the student-athlete can return to competition. The results of any subsequent re-testing must be received by the Assistant Athletic Director for Sports Medicine before a student-athlete can be granted re-entry into competition and/or practice.

Re-entry Testing

A Student-Athlete who has had his/her eligibility to participate in intercollegiate sports suspended as a result of a drug violation may be required to undergo re-entry drug testing prior to regaining eligibility. The Director of Athletics shall arrange for re-entry testing at the cost of the Student-Athlete following the completion of the team suspension.

Selling and/or Distributing an Illegal or Banned Substance

Whereas the use of a banned substance has the potential to lead a user to self-destruction, selling and/or distributing an illegal or banned substance has the potential to harm others, as well as the offender. Consequently, Davis & Elkins Athletics, in its sole and absolute discretion, reserves the right to deal appropriately with any participant who is found to have sold and/or distributed or intended to sell and/or distribute an illegal or a banned substance. A participant found guilty by Davis & Elkins College or any state or federal entity to have sold or distributed an illegal or banned substance will be subject to immediate expulsion from the athletics program.

Please refer to the Davis & Elkins College Policy Manual online at <https://www.dewv.edu/about/compliance-ethics> for complete details of additional rules and disciplinary actions of the College.

Excerpts from the Student-Athlete Discipline Policy and Procedures (Relevant to this Notification)

The Davis & Elkins College Athletic Department is committed to Developing Excellence through Education, Engagement, Character and Competition. One of the ways the Athletic Department fosters this type of holistic student-athlete development is commitment to discipline and focus.

Senator Athletics requires all student-athletes to conduct themselves in a respectable manner consistent with the mission of the College, the Mountain East Conference, Great Midwest Athletic Conference (G-MAC), and the National Collegiate Athletic Association (NCAA). Student-athletes are subject to all College policies, including regulations and Student Code of Conduct outlined in the Davis & Elkins College Student Handbook.

At all times, student-athletes are required to conduct themselves in a manner respectful of themselves, their team, the College and its Athletics Department, game officials, opponents, and property. Student-athletes are to refrain from disrespectful conduct such as unsportsmanlike conduct: profane, abusive, demeaning, harassing, threatening or obscene expression.

Natural Consequences allow students to learn from the world. Logical consequences teach responsibility and allow student to learn from their successes as well as their mistakes. The goal is to teach the student how to self-regulate, make good decisions, and to redirect bad behavior into positive ones. Using physical punishment in athletics does not allow students to learn from or correct their mistakes and teaches them to hate physical conditioning. The Davis & Elkins Athletic Department does not tolerate physical punishment of student-athletes for any type of violation either for conduct or academics.

Punishment

- Isn't effective and teaches deceptive behavior
- Creates mistrust and fear
- Creates an environment where good behavior is ignored

Discipline

- Helps teach self-control and builds self-esteem
- Creates an example of problem solving; allows individuals to fix their mistakes
- Creates an environment where good behavior builds esteem and confidence
- Builds relationships and promotes trust

Any incident or report of a student-athlete alleged to have violated the Athletic Department Student-Athlete Discipline Policy or any other College policy will be reviewed by Judicial Affairs (under the Office of Student Life) with an administrative hearing and will be sanctioned according to the results of that hearing.

When a HC, Assistant Coach or Athletic Department staff member learns that a student-athlete has been involved in an alleged act of misconduct, the individual must immediately notify the DA of the alleged violation and complete the required Clery submission (<https://www.dewv.edu/consumer-information/incident-report-form/>).

Student-Athlete Disciplinary Appeals Process

Following a decision rendered in the Student Life administrative hearing, appeals must be submitted to Student Life in writing within three (3) days of the date of the decision. Failure to file a request for appeal in a timely manner constitutes a waiver of any right to an appeal. The bases for an appeal are limited to the following grounds:

1. The evidence presented at the hearing does not support the verdict.
2. The sanction(s) is/are excessively severe.
3. New or newly discovered evidence is of a character which may substantially affect the outcome of the hearing.
4. There was a procedural error which substantially affected the outcome of the hearing.

The Athletics Judicial Council (comprised of the Director of Athletics, Faculty Athletic Representative, and Athletics Senior Woman Administrator) will be included in the discussion if the appeal should be granted from an Athletic Department Student-Athlete Discipline Policy perspective.

Should the student-athlete not agree with the decision by the appeal committee, student-athletes should refer to Student Grievances in *section 6.3.2.5 of Volume VI – Student Life Policies, in the Davis & Elkins College Policy Manual* at <https://www.dewv.edu/wp-content/uploads/2021/08/Davis-Elkins-College-Policy-Manual-Volume-VI-Student-Life-Policies.pdf>

Davis & Elkins College Athletics (Self-Disclosure) Safe Harbor Program

The Davis & Elkins College Athletic Department strives to provide a program which affords Davis & Elkins student-athletes the opportunity to grow mentally, physically and spiritually. Illegal and/or abusive use of drugs or alcohol by any member of the Davis & Elkins College community adversely affects the educational environment and the related athletic programs.

In keeping with the educational mission of the institution, the Davis & Elkins College Athletic Department will utilize educational strategies as its major approach to this problem. However, any student-athlete who illegally uses drugs or abuses any drug, including alcohol, will be subject to the prosecution of civil authorities, and disciplinary action by the College and the Athletic Department.

Davis & Elkins College encourages voluntary admission of illegal drug use and abuse of alcohol and legal drugs. A student-athlete eligible for Davis & Elkins College's Safe Harbor Program may refer himself or herself to the Safe Harbor Program for voluntary evaluation, testing and counseling. To enter the Safe Harbor Program, the student-athlete must notify the Director of Athletics and/or the Assistant Athletic Director for Sports Medicine, and complete the Safe Harbor Program notification form.

However, there are circumstances in which a student-athlete is *not* eligible for the Program and include any of the following:

- After any potential violation of the Davis & Elkins College Student Handbook Policies
- A student-athlete who has received a previous positive Davis & Elkins College or NCAA drug test.
- After drug test notification has been initiated. For example, once a student-athlete or coach has been notified of a drug test, the Safe Harbor Program is no longer available for that particular test.
- Thirty (30) days prior to NCAA or Conference postseason competition.
- Previously entered him/herself into the Safe Harbor Program at any time during their athletic eligibility at Davis & Elkins College (regardless of the substance).

Treatment options are available from the Director of Counseling and Wellness, if you do not qualify for the Safe Harbor Program.

Safe Harbor Program Structure

1. A student must remain in the Safe Harbor Program for a minimum of thirty (30) days or longer as determined by the treatment plan. While in the program, the student-athlete is not eligible to represent Davis & Elkins College in competition.
2. The student-athlete shall be financially responsible for any testing, outside treatment, and/or counseling.

3. Davis & Elkins College will work with a student-athlete to prepare a Safe Harbor treatment plan, which may include confidential drug testing, as determined by the Athletic Director, Director of Counseling and Wellness, and Assistant Athletic Director for Sports Medicine.
4. Students that participate will need to sign a release form that allows the treatment provider to: 1) verify treatment compliance and 2) provide treatment recommendations to the Director of Athletics or his/her designee. While this release is a requirement to participate in the Safe Harbor program, refusal to sign this release will not jeopardize the student's right to obtain treatment.
5. If a student-athlete tests positive for a banned substance upon entering the Safe Harbor Program, that positive test will not result in any administrative sanctions unless the student-athlete tests positive in a subsequent test, or the student-athlete fails to comply with the treatment plan.
6. Based upon a medical examination by the team physician or designee, the student-athlete may be disqualified from practice if medically indicated. The examination may consist of diagnostic tests to determine any potential risks the drug use poses to the student-athlete's welfare.
7. Medical clearance by the team physician or designee may be required once treatment has been successfully completed by the student-athlete.
8. While in compliance with the Safe Harbor Program treatment plan, a student-athlete will not be included in the list of students eligible for institutional drug testing by the Davis & Elkins College Athletic Department.
9. Student-athletes in the Safe Harbor Program may be selected for drug testing by the NCAA.
10. The Director of Athletics and Assistant Athletic Director for Sports Medicine, and the Head Coach will be informed of a student-athlete's participation in the Safe Harbor Program and at their discretion may notify additional athletics personnel. Other college employees may be informed only to the extent necessary for the implementation of this policy.

Drug-Free Workplace

In compliance with the Drug Free Workplace Act of 1988, Davis & Elkins College prohibits the unlawful manufacture, use, dispensing, possession, or distribution of controlled substances by any employee, volunteer, or other individual participating in the College workplace.

As a condition of employment or participation in the workplace, Davis & Elkins College requires all workforce participants to adhere to the Drug-Free Workplace Policy, as well as the prohibitions outlined in the College's Alcohol and Drug Policy (see Volume II of the Davis & Elkins College Policy Manual).

Any employee, volunteer, or other individual participating in the Davis & Elkins workplace who is convicted of violating a criminal drug statute inside or outside of the workplace must notify an immediate supervisor or the principal investigator (in the case of federal research grant or contract) of the conviction, in writing, no later than five calendar days after the conviction. The appropriate supervisor or principal investigator is responsible for immediately notifying the Director of Human Resources, who will then notify all affected federal agencies within ten (10) days of receiving notice of the conviction in compliance with 34 CFR §84.225(a).

Consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. §794), as amended, the College will appropriately sanction any employee, volunteer, or other individual participating in the Davis & Elkins College workplace who violates this policy. In the event the individual was engaged in the performance of a federal award or contract, disciplinary action will be taken within 30 calendar days of

learning of the conviction. In addition to College sanctions, the affected individual may be subject to criminal penalties under applicable federal and state law.

Drug and Alcohol Free Workplace Program

Davis & Elkins College (“the College”) is committed to providing a safe, healthy, and productive workplace that is free from alcohol and unlawful drugs as classified under local, state, or federal laws, including marijuana, while employees are on the College’s premises (either on or off duty) and while operating employer-provided vehicles. Employees who work while under the influence of drugs or alcohol pose a safety risk to themselves and others with whom they work.

It is a condition of employment for all employees of the College to refrain from reporting to work, performing work, being on a published/scheduled on-call shift, returning to work after being off-site, or operating equipment, machinery, or vehicles for the College with the presence of drugs or alcohol in their bodies. Failure to comply will result in appropriate disciplinary action up to and including expulsion or dismissal, cancellation of their contract, or other appropriate responsive action.

To ensure compliance with this condition of employment, the College maintains this DrugFree Workplace Program under which job applicants and current employees may be required to submit to drug and alcohol testing. This policy is intended to comply with applicable laws regarding drug and alcohol testing and current and prospective employee privacy rights, including the provisions of The West Virginia Safer Workplaces Act, W. Va. Code §§ 21-3E-1 to -16.

Purposes of Drug and Alcohol Testing

The College may require the collection and testing of samples for, among other legitimate drug abuse prevention and/or treatment purposes, the following: (1) deterrence and/or detection of possible illicit drug use, possession, sale, conveyance, distribution, or manufacture of illegal drugs, intoxicants, or controlled substances in any amount or in any manner, on or off the job, or the abuse of alcohol or prescription drugs; (2) investigation of possible individual employee impairment; (3) investigation of accidents in the workplace or incidents of workplace theft or other employee misconduct; (4) maintenance of safety for employees, students, visitors, or the public at large; or (5) maintenance of productivity, quality of products or services, or security of property or information.

Pre-Employment Testing

All prospective employees are subject to drug and alcohol testing. All offers of employment with the College may be conditioned on the applicant submitting to and successfully completing and passing a drug and alcohol test in accordance with the testing procedures described in this policy.

Testing Based on Reasonable Suspicion

Employees may be asked to submit to a drug and alcohol test if an employee's supervisor or other person in authority has a reasonable suspicion, based on objective factors such as the employee's appearance, speech, behavior, or other conduct and facts, that the employee possesses or is under the influence of unlawful drugs, such as marijuana, or alcohol, or both. Employees who take over-the-counter medication or other lawful medication that can be legally prescribed under both federal and state law to treat a disability or other condition should inform their supervisor if they believe the

medication will impair their job performance, safety, or the safety of others or if they believe they need a reasonable accommodation before reporting to work while under the influence of that medication.

Periodic/Random Testing

Employees are subject to drug and alcohol testing on a periodic or random basis as a condition of continued employment.

Post-Incident Testing

Employees involved in any work-related accident or incident may be required to submit to drug and alcohol testing. This applies even if the incident did not result in injury to any person or any property damage.

Upon the occurrence of a work-related injury, the College may require that the employee undergo a blood test within two hours of the accident for the purpose of determining the existence or nonexistence of evidence of intoxication.

Testing in Other Circumstances

The College may require drug and alcohol testing as a condition of continued employment in any other circumstance consistent with law and the purposes of this policy as stated above.

Testing Procedures

All drug and alcohol testing under this policy will be in accordance with the following procedures:

1. Any drug and alcohol test will occur during, or immediately before or after, the employee's regular work period;
2. Any drug and alcohol testing required by the College will be counted as worked time for the purposes of compensation and benefits for current employees;
3. The College will provide transportation or pay reasonable transportation costs to employees if the required tests are conducted at a location other than the employee's normal work site;
4. The College will pay for the full cost of any drug or alcohol test under this policy;
5. The collection of samples will be performed under reasonable and sanitary conditions;
6. Samples will be collected using a "split sample" method, meaning that a part of the sample that is sent to the first laboratory will be retained unopened for transport to a second laboratory in the event that the employee or prospective employee requests that it be tested following a verified positive test result of the primary specimen.
7. Any observer of the collection of urine samples will be of the same sex as the employee or prospective employee;
8. Sample collections will be documented, and these documentation procedures will include:
 - a. Labeling of samples so as to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided and handling of samples in accordance with reasonable chain-of-custody and confidentiality procedures;
 - b. An opportunity for the employee or prospective employee to voluntarily provide notification of any information which may be considered relevant to the test, including but not limited to, identification of currently or recently used prescriptions or non-

prescription drugs, or other relevant medical information. This may be accomplished by providing for review by a qualified medical professional to verify a laboratory sample which tests positive in a confirmatory test;

9. Sample collection, storage, and transportation to the place of testing will be performed so as to reasonably preclude the possibility of sample contamination, adulteration, or misidentification;
10. Confirmatory drug testing will be conducted at a laboratory that is:
 - a. Certified by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration;
 - b. Approved by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvements Act; or
 - c. Approved by the College of American Pathologists.
11. Drug and alcohol testing shall include confirmation of any positive test results. For drug testing, confirmation will be by use of a different chemical process than was used in the initial drug screen. The second confirmatory drug test shall be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.
12. The College will take adverse employment action, including termination of the employment of a current employee or job denial to a prospective employee, based only on a confirmed positive drug or alcohol test.

Confidentiality

All records relating to an employee or prospective employee's drug and alcohol test results will be kept confidential and maintained separately from the individual's personnel file. The results of any test under this policy shall be disclosed only to the College, its authorized employees, agents or representatives of the College, the tested employee or prospective employee, or the authorized agent or representative of the employee or prospective employee.

Consequences of a Positive Test

Employees who test positive will be subject to discipline, up to and including immediate termination of employment. Prospective employees who test positive will have their conditional job offers withdrawn. ***Employees discharged because of a positive drug or alcohol test will forfeit their eligibility for unemployment compensation benefits and, if injured at the time of intoxication, will forfeit indemnity benefits under the Workers' Compensation Laws.***

Consequences for Refusing to Submit to Testing or Failing to Complete the Test

Employees who refuse to submit to testing as required by the College or who fail to complete the test will be subject to discipline, up to and including immediate termination of employment. Prospective employees who refuse to submit to drug and alcohol testing will be deemed to have withdrawn themselves from the application process and will no longer be considered for employment. ***Employees discharged because of refusing or failing to complete a drug or alcohol test will forfeit their eligibility for unemployment compensation benefits and, if injured, will forfeit indemnity benefits under the Workers' Compensation Laws.***

Challenge of Test Results

In the event that an employee or prospective employee tests positive and desires to challenge the results of his or her initial sample test result, he or she may request that the split sample be transported to a second laboratory for separate testing. All costs associated with testing of the split sample shall be the responsibility of the employee or prospective employee challenging the initial sample test results.

Administration of this Policy

The College expressly reserves the right to change, modify, or delete the provisions of this Drug-Free Workplace Program without notice.

If you have any questions regarding this policy or if you have questions about drug testing in the workplace that are not addressed in this policy, please contact the Human Resources Director.

Employee Assistance Program for Full-Time Employees

Davis & Elkins College cares about the health and well-being of its employees and recognizes that a variety of personal problems can disrupt their personal and work lives. Although employees may solve their problems either on their own or with the help of family and friends, sometimes employees need professional assistance and advice.

Through the Employee Assistance Program (EAP), the College provides confidential access to professional counseling services for help in confronting such personal problems as alcohol and other substance abuse, marital and family difficulties, financial or legal troubles, and emotional distress. The EAP is available to all full-time employees and their immediate family members offering problem assessment, short-term counseling, and referral to appropriate community and private services.

The EAP is strictly confidential and is designed to safeguard the employee privacy and rights. Information given to the EAP counselor may be released only if requested by the employee in writing. All counselors are guided by a Professional Code of Ethics.

Personal information concerning employee participation in the EAP is maintained in a confidential manner. No information related to an employee's participation in the program is entered into the personnel file.

There is no cost for full-time employees to consult with an EAP counselor. If further counseling is necessary, the EAP counselor will outline community and private services available. The counselor will also let full-time employees know whether any costs associated with private services may be covered by their health insurance plan. Costs that are not covered are the responsibility of the employee.

An EAP counselor may be contacted by full-time employees at:

888.293.6948

(TTY Services: 711)

24 hours a day, seven days a week

healthadvocate.com/standard3

Biennial Review

Davis & Elkins College conducts a biennial review of its alcohol and drug prevention program to determine its effectiveness and implement changes to the program if they are needed and takes steps to ensure that disciplinary sanctions for alcohol and drug policy violations are consistently enforced. As part of this review, the College determines:

1. The number of drug- and alcohol-related violations and fatalities occurring on the campus or as part of College activities that are reported to campus officials; and
2. The number and types of sanctions the College has imposed on students or employees as a result of such violations or fatalities.

Federal Drug Trafficking Penalties

FEDERAL TRAFFICKING PENALTIES—MARIJUANA

DRUG	QUANTITY	1st OFFENSE	2nd OFFENSE *
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	More than 10 kgs hashish; 50 to 99 kg marijuana mixture More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana (Schedule I)	Less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight) 1 to 49 marijuana plants;	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish (Schedule I)	10 kg or less		
Hashish Oil (Schedule I)	1 kg or less		

*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a mandatory term of life imprisonment without release and a fine up to \$20 million if an individual and \$75 million if other than an individual.

United States Drug Enforcement Administration. (2017). Federal trafficking penalties. Retrieved from https://www.dea.gov/sites/default/files/drug_of_abuse.pdf.

FEDERAL TRAFFICKING PENALTIES

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500-4999 grams mixture	First Offense: Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual.	5 kgs or more mixture	First Offense: Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.
Cocaine Base (Schedule II)	28-279 grams mixture		280 grams or more mixture	
Fentanyl (Schedule II)	40-399 grams mixture	Second Offense: Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	400 grams or more mixture	Second Offense: Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
Fentanyl Analogue (Schedule I)	10-99 grams mixture		100 grams or more mixture	
Heroin (Schedule I)	100-999 grams mixture	2 or More Prior Offenses: Life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.	1 kg or more mixture	
LSD (Schedule I)	1-9 grams mixture		10 grams or more mixture	
Methamphetamine (Schedule II)	5-49 grams pure or 50-499 grams mixture		50 grams or more pure or 500 grams or more mixture	
PCP (Schedule II)	10-99 grams pure or 100-999 grams mixture		100 gm or more pure or 1 kg or more mixture	
PENALTIES				
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	First Offense: Not more than 20 yrs. If death or serious injury, not less than 20 yrs, or more than life. Fine \$1 million if an individual, \$5 million if not an individual.		
Flunitrazepam (Schedule IV)	1 gram	Second Offense: Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.		
Other Schedule III drugs	Any amount	First Offense: Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.		
		Second Offense: Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.		
All other Schedule IV drugs	Any amount	First Offense: Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.		
Flunitrazepam (Schedule IV)	Other than 1 gram or more	Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.		
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.		
		Second Offense: Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.		

United States Drug Enforcement Administration. (2017). Federal trafficking penalties. Retrieved from https://www.dea.gov/sites/default/files/drug_of_abuse.pdf.