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Policy Steward Pamela Parsnik:
Director of Human Resources & Title IX Coord.
Area Human Resource Mgmt

Drug and Alcohol Policy

I. Reason for Policy

To promote a healthy and safe campus environment that includes one taking responsibility for one's own actions. The policy states the University's expectations regarding the use of alcohol and other drugs by employees, students, and other members of the University community, including those using University resources, and their responsibilities and obligations in using alcohol and other drugs. Additionally, the policy serves to express, describe, and articulate compliance and obligations with State and federal laws.

II. Policy Statement

Misericordia University is committed to maintaining a safe and healthy community that supports the mission of the institution. In keeping with this commitment, the university permits the use of alcohol or drugs within its community only in a manner that is legal, responsible, and consistent with the expectations outlined in this policy. The unlawful manufacture, distribution, dispensation, possession, use, and/or sale of controlled substances or other illegal drugs is prohibited. The purchase and use of alcoholic beverages under certain conditions is allowed, but the university expects individuals to take specific measures to help prevent alcohol abuse. Further, the university makes available information and resources so that its community members are positioned to assist anyone whose personal well-being may be negatively impacted due to misuse of alcohol or drugs.

This policy applies to all members of the university community, including all faculty, staff and students. This policy also applies to contractors, volunteers and visitors while on university property (whether owned or leased) or while being paid or reimbursed with university funds. This policy focuses on compliance with laws in the United States and the Commonwealth of Pennsylvania.

III. Who Should Read This Policy

- All members of the Misericordia University Community
- Anyone planning a campus event that will be serving Alcohol
- Anyone dispensing alcohol on university-owned or managed property

IV. The Policy

1. Drug-Free Environment/Substance Abuse/Alcohol

Policy on Drugs

It is the goal of Misericordia University to be in compliance with the U.S. federal Drug-Free Workplace Act of 1988, the Drug Free Schools and Communities Act of 1989, and the Crime Awareness and Campus Security Act of 1990. Therefore, the unlawful manufacture, possession, distribution, sale, or use of drugs is prohibited at the university. This prohibition applies to the unlawful possession, distribution, sale, or use of illegal narcotics, prescription drugs, and other illegal drugs. It is a violation of this policy for prescription drugs to be provided to or used by someone other than the person for whom they were prescribed. It is also a violation of this policy for prescription drugs to be used in a manner for which they were not prescribed.

The university complies with all applicable federal, state and local laws. The U.S. federal Drug Free Schools and Communities Act of 1989 requires institutions of higher education that receive federal funds to comply with U.S. federal drug laws. Although some state and local governments have legalized the use of various forms of marijuana, federal law continues to prohibit the manufacture, possession, distribution, sale, or use of marijuana. As such, in accordance with U.S. federal law, all forms of marijuana, including prescription medical marijuana, are prohibited on all university property (whether owned or leased) and in connection with all university programs.

Faculty, staff, and student-workers are prohibited from being under the influence of any drugs (including prescription drugs) that cause impairment and impact the ability of employees to perform their jobs. University employees with a license to operate specialized vehicles or equipment (e.g., commercial driver's license) must follow all applicable rules prohibiting the use of drugs before and/or while operating the vehicle/equipment.

Violations of the Drug and Alcohol Policy may result in disciplinary action as set forth in the Disciplinary Action policy. See Separation From Employment (Staff), Section [Dismissal - After Introductory Period](#) for disciplinary action pertaining to administrators and staff, and Separation, Separation, section [Dismissal for Cause](#) for disciplinary actions pertaining to faculty.

Policy on Alcohol

The unlawful manufacture, possession, distribution, sale, or use of alcohol is prohibited at the university.

All members of the university community are expected to comply with applicable laws regarding the

possession, consumption, transportation, and distribution of alcohol. Except as set forth below, the lawful consumption of alcoholic beverages on university property (whether owned or leased) and/or in connection with university programs by individuals of legal drinking age (21 years or older in United States) is permitted by the university. In these circumstances, however, the university expects faculty, staff, students, contractors and all other visitors to conduct themselves, both individually and collectively, in a responsible manner and in compliance with this policy.

All university employees, including faculty, staff, and student-workers, are expected to observe the highest standards of ethical and professional conduct. Faculty, staff and student-workers who are of legal drinking age who choose to engage in the consumption of alcohol are expected to do so responsibly. Faculty, staff, and student-workers are prohibited from working while intoxicated or impaired. Furthermore, faculty, staff, and student-workers are prohibited from consuming alcohol in a manner that in any way impairs the performance of job duties, endangers the physical well-being of oneself or others, or could result in the damage of property (in most circumstances, employees are to refrain from consuming alcohol when performing their normal academic, administrative, technical, or professional duties). University employees with a license to operate specialized vehicles or equipment (e.g., commercial driver's license, etc.) must follow all applicable rules prohibiting the use of alcohol before and/or while operating the vehicle/equipment.

Health Risks of Controlled Substances and Alcohol

The illegal use of controlled substances and alcohol and the abuse of alcohol and prescription drugs may lead to permanent health conditions including, but not limited to, disorders of the central nervous system, reproductive functioning, cardiovascular and pulmonary systems, and endocrine functioning. In addition, there may be both short-term and long-term effects on cognition, memory, retention, information processing, coordination, athletic performance, academic performance, and the exercise of judgment.

- **Controlled Substances:** All drugs, whether illegal or prescribed, alter the chemical balance of the body. The misuse of drugs may lead to addiction and even death. Drug addiction and abuse can cause serious damage to the brain, stomach, lungs, liver, kidneys, heart, and the immune and reproductive systems. The sharing of needles is a significant factor in the spread of HIV.
- **Alcohol:** Inappropriate use and abuse of alcohol is often associated with lower academic performance and failures, sexually transmitted diseases and unplanned pregnancies, vandalism, aggressive behaviors including sexual assault and rape, injuries, death, and prosecution for crimes related to the consumption of alcohol. Even small amounts of alcohol may impair the ability to concentrate, as well as the judgment and coordination required to drive a car safely thus increasing the likelihood that the driver will be involved in an accident. Small to moderate amounts of alcohol may also increase the incidence of a variety of aggressive acts, including spousal and child abuse. Moderate to high doses of alcohol can cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses may result in respiratory depression and even death. When used in conjunction with other depressants of the nervous system, even a

small amount of alcohol can result in these effects.

Repeated use of alcohol may lead to dependence or addiction. The sudden cessation of alcohol consumption produces withdrawal symptoms such as severe anxiety, tremors, hallucinations and convulsions, and can be life threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, may also lead to permanent damage to vital organs such as the brain and liver.

Women who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. Infants with fetal alcohol syndrome have irreversible physical abnormalities and mental retardation. Further, research shows that children of alcoholic parents are at greater risk than other children of becoming alcoholics themselves.

To review a comprehensive list of information relating to the long and short term impacts of specific substances, visit the [National Institute of Health: National Institute on Drug Abuse](#).

2. Employees' Responsibility

It is every employee's responsibility to promptly report to the appropriate supervisor, any observation or gained knowledge of a condition adversely affecting a co-worker's ability to perform their job responsibilities or posing a hazard to the safety and welfare of others in the work environment.

Individual employees are obligated to report any criminal drug statute conviction for a violation occurring in the work environment. This report shall be made to the immediate supervisor within ten (10) days of the conviction. The supervisor must immediately notify the Director of Human Resources and their respective Dean/Vice President.

For violations of the policy, the Dean/Vice President and the Director of Human Resources will discuss the degree of disciplinary action with the appropriate levels of supervision and recommend action, ranging from mandatory participation in a rehabilitation treatment program up to and including termination of employment.

As required by law, when a violation occurs in the work environment and when appropriate, the Dean/Vice President will notify the Director of Campus Safety who will notify the appropriate government agency within five (5) days after receiving notice of a violation.

3. Consumption of Alcohol at University Events

Misericordia University relies heavily on the individual good judgment of our employees, students, contractors and all other visitors in carrying out this policy. There will be times when alcohol is served at events sponsored by the University, other associations, or other business associates. Individuals who choose to drink alcoholic beverages at these events are expected to exercise due care and good judgment. Failure to do so will result in disciplinary action and/or sanctions.

The following principles and procedures will provide managers, employees, students, and others with further guidance on the responsible use of alcoholic beverages at events.

- The prior approval of a Vice President or President will be required for any University

sponsored event where alcoholic beverages will be consumed or served. The use of alcoholic beverages on Misericordia University's premises without prior authorization is strictly prohibited.

- At any University sponsored event where alcoholic beverages are served, non-alcoholic beverages and snack foods should be made available. Reasonable time limits will also be placed on the serving of alcoholic beverages.
- In compliance with Pennsylvania state law, alcohol must be served in a controlled manner and not be freely accessible. No one under the age of 21 or visibly intoxicated may be served. Alcohol must not leave the University event venue.

Responsible consumption of alcoholic beverages is permitted at tailgating. Tailgating is subject to rules and standards set by the University. The University's Athletic Tailgating Policy can be found on the Misericordia Football Game Day webpage at: [Misericordia Athletics Football Game Day Information](#).

V. Definitions

Controlled Substance - A drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of title 21 USCS Section 812 of the Federal Controlled Substances Act.

Sale of Alcoholic Beverages - The act of dispensing alcohol through direct sale, or at a function where alcohol is dispensed and any of the following occur:

- an admission charge or tickets are sold
- donations are collected
- items are bartered or traded in exchange for alcoholic beverages
- food is sold (even if alcohol is free)

Serving of Alcoholic Beverages - The dispensing of alcoholic beverages in any fashion (whether sold or given away) for consumption by an individual.

Under The Influence - Phrase used to describe a person who is intoxicated, affect by the use of alcohol or drugs, or a combination of both

University Sponsored Event - An event that is sponsored by an individual or entity on behalf of the university, or an event that takes place on university-controlled property.

VI. Procedures

1. Policy Implementation

Implementation and administration of the Drug and Alcohol Policy is handled by the Office of Human Resources.

2. Employee's Responsibility

An employee is responsible for being fit for duty when reporting to work and during working hours. In addition, an employee is expected to maintain a lifestyle which will not negatively impact upon their

ability to perform their job safely, productively and efficiently; and, for observing the regulations and procedures set forth in this policy.

An employee should notify their manager/supervisor when their physical or mental condition may affect the performance of duties or may jeopardize personal safety or the safety of others.

An employee who reasonably suspects that another individual is unfit for duty by virtue of their observed physical or mental condition or performance of job duties and responsibilities is expected to immediately notify a manager/supervisor and human resources.

As a condition of employment, all employees must abide by the terms of this policy. Employees found to be in violation of this policy are engaged in serious misconduct and may be subject to appropriate disciplinary action, and/or required to participate in appropriate drug and/or alcohol abuse rehabilitation programs.

Possible violations of the provisions of this policy shall be referred to the Director of Human Resources Officer or other designated institutional official for investigation and when warranted, determination of appropriate administrative/disciplinary action, up to and including termination and, if warranted, referral for criminal prosecution.

Employees must notify their supervisors of any conviction of:

- A. a criminal drug law, based on conduct occurring in or outside of the workplace; or
- B. an alcohol beverage control law or law that governs driving while intoxicated, based on conduct occurring in the workplace.

Notification of a conviction must be made no later than five calendar days after such conviction. An employee's appeal of a conviction does not affect the employee's obligation to report the conviction. Reporting of convictions is applicable to all employees, regardless of a background investigation.

3. Manager/Supervisor's Responsibility

Managers/supervisors are responsible for administering this policy according to the regulations and procedures identified herein. In addition, managers/supervisors are responsible for reinforcing an employee's understanding of the fitness for duty requirement and for administering this policy in a fair, uniform and consistent manner.

Managers/supervisors and/or co-workers should be aware of the signs of substance abuse, which include, but are not limited to, behavior changes, absenteeism/lateness, noted change in interaction with others, impairment in job performance, unaccounted drugs missing from University stock or indications of inappropriate medication dispensing. More specific behaviors which may indicate a lack of fitness for duty include, lethargy, slurred or incoherent speech, or speech which differs from the employee's usual pattern, unusual odor on breath, departures from usual behavior, accidents, lack of manual dexterity or unusual trembling, lack of coordination in body movement, inappropriate response to stimulus, verbal abuse and boisterous behavior toward others, threats of physical harm toward self/others and demonstration of emotional instability and/or hostility, sudden unprecedented change in mood or drastic change in dress or appearance.

The manager/supervisor will request, when possible, the presence of a second manager/supervisor to witness and confirm any observed performance, behavioral and/or conduct problems.

Managers/supervisors and/or co-workers should report unusual behavior or circumstances to Human Resources.

If a manager/supervisor determines that a fitness for duty evaluation is necessary, regardless of the time of day, or day of week, the manager/supervisor in conjunction with Human Resources will immediately release the employee from duty with pay pending the results of the medical evaluation and final results of an investigation.

The manager/supervisor should contact the Security Office in those instances where an employee's behavior poses a threat to any individual's safety.

Within 30 calendar days of receiving notice of an employee's criminal conviction OR of any other violation of this policy, the manager/supervisor must:

- A. take appropriate disciplinary action against the employee, and/or
- B. require the employee to participate satisfactorily in a rehabilitation program if a drug-related conviction is received, or recommend such a program if an alcohol-related conviction is received. An employee's satisfactory participation in a rehabilitation program shall be determined by management after:
 1. the employee's presentation of adequate documentation (the agency has discretion to determine what documentation will be required); and/or
 2. consultation with EAP or with any rehabilitation program, provided that the employee gives his or her consent when the consultation is to be with the rehabilitation program that treated the employee.

4. Student's Responsibility

A student is responsible to make healthy, appropriate choices concerning their personal use of alcohol and the University supports them in this endeavor through education and other resources. The University sponsors activities and programs focused on students who choose not to drink or to drink lightly, as well as resources and services to assist students who need help for themselves or others related to alcohol use.

For specific guidelines regarding student Community Standards, refer to the Misericordia University Student Handbook. Students should also be familiar with Pennsylvania laws governing the consumption of alcohol.

5. Confidentiality

Drug and/or alcohol abuse is a particularly sensitive issue that may affect any member of the University community. The right to confidentiality of all parties involved in a violation or alleged violation of the University's Drug and Alcohol Policy shall be strictly adhered to insofar as it does not interfere with the University's legal obligation to investigate allegations of drug and/or alcohol abuse in the workplace when brought to the University's attention, and to take appropriate corrective action.

6. Responsible Use of Alcoholic Beverages

If alcohol will be consumed on a University-owned property or served at a University Sponsored Event, employees, students, contractors and all other visitors must follow the principles and procedures outlined in this policy.

The following specific guidelines are offered to help ensure there is responsible use of alcohol and to aid those who plan events. These guidelines will be applicable in most, though not all, situations. As always, discretion on the part of all individuals is paramount.

- Alcohol should be consumed in moderation. A good rule of thumb is no more than one drink per person per hour.
 - The University's food service vendor should be used to coordinate events on campus. Prior to the event, discuss the amount of alcohol to serve and the type of event. The University's vendor can provide a server who can assist in managing alcohol consumption.
- Do not consume alcohol on an empty stomach.
- Consume food when drinking alcohol. High-protein and carbohydrate foods are best, because they slow the rate at which alcohol is absorbed.
- Stop drinking alcohol about an hour before the event ends, and consume non-alcoholic beverages, and food instead.

Under the Influence at a University Sponsored Event

Anyone deemed to be "under the influence" at a University Sponsored Event should not be allowed to drive home from the event. Those who are under the influence should make arrangements for alternate transportation. Those who have not made arrangements but who are under the influence should be provided with a "designated driver" or alternate form of transportation. Any expense associated with an alternate form of transportation (e.g. taxi) shall be the ultimate responsibility of the impaired individual and reimbursement to the University will be required.

7. Sanctions

Employees, and students who violate this policy may be subject to disciplinary action up to and including suspension, expulsion, and/or termination of employment. Visitors to the university who violate this policy may be removed from university property and university events. Individuals who violate this policy may also be referred for criminal prosecution, though criminal charges are not a prerequisite for sanctions under this policy.

8. Resources

The following resources are available to individuals seeking assistance relating to the abuse of drugs or alcohol.

- Counseling & Psychological Services – Counseling and Psychological Services (CaPS) is available as a resource to students for initial assessment of drug and alcohol use, and referrals

to off campus outpatient and inpatient treatment programs.

- Life Assistance Program (Employees) – Misericordia University provides a Life Assistance Program (LAP) through New York Life, sponsored and paid for by the university, to facilitate employees' efforts to resolve problems that can affect job performance and general well-being. The New York Life's Life Assistance Program (LAP) can be accessed at 1.800.538.3543 or www.nylgbs-lap.com.
- Wyoming Valley Alcohol and Drug Services, Inc., 437 North Main Street, Wilkes-Barre, PA 18705; 570-820-8888.

9. Federal, State, Local Law for Unlawful Possession or Distribution of Illicit Drugs and Alcohol

Federal Drug Laws

The possession, use, or distribution of illicit drugs is prohibited by federal law. Strict penalties are enforced for drug convictions, including mandatory prison terms for many offenses. The following information, although not complete, is an overview of federal penalties for first convictions. All penalties are doubled for any subsequent drug conviction. For more information on Federal Drug Laws, please visit the Drug Enforcement Agency website using the following links:

- [DEA Controlled Substances Act](#)
- [DEA Drug Scheduling](#)

Denial of Federal Aid (20 USC 1091)

Under the Higher Education Act of 1998, students convicted under federal or state law for the sale or possession of drugs may have their federal financial aid eligibility suspended. This includes all federal grants, loans, federal work study programs, and more. Students convicted of drug possession will be ineligible for one year from the date of the conviction of the first offense, two years for the second offense, and indefinitely for the third offense. Students convicted of selling drugs will be ineligible for two years from the date of the first conviction, and indefinitely for the second offense. Those who lose eligibility may regain eligibility by successfully completing an approved drug rehabilitation program.

Forfeiture of Personal Property and Real Estate (21 USC 853)

Any person convicted of a federal drug offense punishable by more than one year in prison shall forfeit to the United States any personal or real property related to the violation, including houses, cars, and other personal belongings. A warrant of seizure is issued and property is seized at the time an individual is arrested on charges that may result in forfeiture.

Federal Drug Trafficking Penalties (21 USC 841)

Penalties for federal drug trafficking convictions vary according to the quantity of the controlled substance involved in the transaction. The following list is a sample of the range and severity of federal penalties imposed for first convictions. Penalties for subsequent convictions are twice as severe.

- If death or serious bodily injury result from the use of a controlled substance which has been illegally distributed, the person convicted on federal charges of distributing the substance faces mandatory life sentence and fines ranging up to \$8 million.
- Persons convicted on federal charges of drug trafficking within 1,000 feet of a University (21 USC 845a) face penalties of prison terms and fines which are twice as high as the regular penalties for the offense, with a mandatory prison sentence of at least 1 year.

For more information regarding drug trafficking penalties, visit the [Drug Enforcement Agency website](#).

Federal Drug Possession Penalties (21 USC 844)

Persons convicted on Federal charges of possessing any controlled substance face penalties of up to 1 year in prison and a mandatory fine of no less than \$1,000 up to a maximum of \$100,000. Second convictions are punishable by not less than 15 days but not more than 2 years in prison and a minimum fine of \$2,500. Subsequent convictions are punishable by not less than 90 days but not more than 3 years in prison and a minimum fine of \$5,000. Possession of drug paraphernalia is punishable by a minimum fine of \$750.

Special sentencing provisions for possession of crack cocaine impose a mandatory prison term of not less than 5 years but not more than 20 years and a fine up to \$250,000, or both if:

1. It is a first conviction and the amount of crack possessed exceeds 5 grams;
2. It is a second conviction and the amount of crack possessed exceeds 3 grams;
3. It is a third or subsequent crack conviction and the amount exceeds 1 gram.

Civil penalties of up to \$10,000 may also be imposed for possession of small amounts of controlled substances, whether or not criminal prosecution is pursued.

Commonly Cited Pennsylvania Alcohol and Drug Penalties

PA STATE VIOLATIONS	IMPRISONMENT (1st Offense)	FINE/SANCTION
Underage drinking or possession of alcohol	0 to 90 days	Up to \$500 (first offense)
Fake IDs used to obtain alcohol	0 to 90 days	Up to \$500
Marijuana possession 30 grams or less	0 days	Up to \$500
Marijuana possession over 30 grams	Up to 1 year	Up to \$5,000
Manufacturing or selling marijuana controlled substances	1 to 10 years	\$5,000 to \$250,000 depending on the substance
Possession of drug paraphernalia	Up to 1 year	Up to \$2,500
Public drunkenness and similar misconduct	0 to 90 days	Up to \$500/1st offense Up to \$1,000/2nd offense
Selling or furnishing liquor or malt or brewed beverages to minors	Up to 1 year	Minimum \$1,000/1st offense Minimum \$2,500/2nd offense

PA STATE VIOLATIONS	IMPRISONMENT (1st Offense)	FINE/SANCTION
Minor (less than 21) operating a motor vehicle with any alcohol in their system	48 hours+	\$500 to \$5,000, alcohol safety school, and comply with alcohol/drug treatment requirements

For information regarding Driving Under the Influence, see the [Department of Motor Vehicles website](#).

Approval Signatures

Step Description	Approver	Date
Final Approval	Daniel Myers: President	09/2023
Final Review	Mark Van Etten: Vice President, Finance and Administration	09/2023
	Ruth Anderika: Director of Campus Safety and Security	09/2023
	Pamela Parsnik: Director of Human Resources & Title IX Coord.	09/2023

