



## Ohio Administrative Code

### Rule 3349-7-35 Mood-altering or consciousness altering substances (drug free workplace).

Effective: March 1, 2019

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#### (A) Purpose

To provide a rule that will promote the health and safety of students, employees, and visitors, the university supports and will maintain a drug-free working and living environment.

#### (B) Scope

This rule applies to all faculty, staff, students, volunteers and any individuals who conduct business for the university. This rule supersedes any provisions of the faculty bylaws which may be in conflict with it.

#### (C) Definitions

(1) Consult rule 3349-7-01 of the Administrative Code.

(2) "Controlled Substance" - has the meaning given such term in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. 812 (1970).

(3) "Criminal Drug Conviction" - means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal state criminal drug statutes.

(4) "Reasonable Belief" - exists when the actor believes that a given fact or combination of facts exists, and that the circumstances which he knows, or should know, are such as to cause a reasonable man to so believe.

(5) "Consciousness or Mood Altering Substance" - means any controlled substance as defined in this paragraph, plus beverage alcohol.



(6) "Controlled Substances or Drugs" - include, but are not limited to:

(a) Narcotics, such as opium, heroin, morphine and synthetic substitutes;

(b) Depressants, such as chloral hydrate, barbiturates, and methaqualone;

(c) Stimulants, such as cocaine (and any derivatives) and amphetamines;

(d) Hallucinogens, such as lysergic acid diethylamide (LSD), Mescaline, phencyclidine (PCP), Peyote, Psilocybin, Ecstasy, and methylenedioxy methamphetamine (MDMA);

(e) Cannabis, such as marijuana and hashish; and

(f) Any chemical compound added to federal or state regulations and denoted as a controlled substance.

(7) "University Premises" - means any building or land owned, leased, or used by the university.

(8) "University Vehicle" - refers to any vehicle owned, leased or operated by the university.

(9) "Criminal Drug Statute Conviction" - occurs when an employee is convicted of or pleads guilty to a violation of a drug statute as defined in the Revised Code.

(10) "Testing for Reasonable Suspicion" - means testing for a specific cause that is conducted immediately after there is significant evidence of using or being under the influence of drugs or alcohol while at work, i.e., aroma of alcohol on breath or directly observed using drugs or drinking alcohol.

(D) Rule statement

(1) The unlawful manufacture, distribution, dispensation, possession, or use of controlled substances or the unauthorized use of alcohol by university employees, students or volunteers on university



premises or university vehicles on or off-campus is prohibited.

(2) Employees may not be at work and students may not participate in coursework or clinical work while under the influence of alcohol or while unlawfully using controlled substances.

(3) This rule provides minimum standards; university departments or contracts may impose stricter standards.

(4) The consumption of alcohol at events where the university has authorized such use is permitted. At such events the use must be sanctioned by the university as well as permitted by the appropriate state agency. Only individuals of legal drinking age may consume alcohol at these events.

(5) General prohibitions and sanctions

(a) The university prohibits its employees and students from the unlawful use, possession, dispensation, distribution, or manufacture of any controlled substance while in the workplace or anywhere on the Rootstown campus.

(b) The consumption of alcoholic beverages by employees or students on the campus at events other than those sanctioned or sponsored by the university is prohibited.

(c) An employee who violates any provision of this rule will be subject to sanctions up to and including termination of employment, a student who violates any provision of this rule will be subject to sanctions up to and including dismissal.

(d) The severity of the sanctions will depend upon the circumstances of the situation.

(6) Employee and student responsibility to report convictions for drug related offenses

(a) Any university employee who is convicted of workplace related substance abuse violation must report the conviction to his/her immediate administrative supervisor within five days. Students must report such corrections to the dean for student affairs or equivocal.



(b) The employee may be subject to sanctions, up to and including termination of employment. Students may be subject to sanctions up to and including dismissal.

(c) The employee may be required to enter a government approved drug rehabilitation program.

(d) Any employee who fails to report a workplace or a student who fails to report any conviction for substance abuse related substance abuse conviction within five days may be subject to sanctions, up to and including termination of employment or dismissal from the program.

(7) Chemical dependency

(a) In cases where the university has a reasonable belief that a faculty or staff member has developed an alcohol or other substance abuse problem; the employee will be assessed, counseled and referred, if appropriate, to a rehabilitation program.

(b) However, if after appropriate referral the employee is unable to perform assigned job duties, appropriate sanctions will be applied, up to and including termination of employment.

(8) Drug testing

All federal, state or local regulations regarding drug testing and monitoring will be followed. There are four situations when the university can conduct tests. All information pertaining to an individual's drug tests or results will be kept confidential, except on a need-to-know basis. All testing conducted under this rule will be done in accordance with standards established by the university department of human resources in conjunction with the offices of employee health services or the office of student affairs and environmental health and safety.

(a) Pre-employment testing. Applicants to specific safety-related and other designated positions at the university will be drug tested after receiving a final offer of employment and prior to beginning work. Applicants will be notified at the time of application that testing for drugs is a requirement of the employment process. Offers of employment are contingent upon successfully passing a drug test.

(b) Testing for reasonable suspicion for employees. Drug or alcohol testing may be conducted if there



is reasonable suspicion of working under the influence of alcohol or drugs.

(i) Testing for reasonable suspicion may be requested by an immediate supervisor, department chair, or other university administrator in consultation with the director of human resources.

(ii) Individuals testing positive will be referred to the university employee assistance program or a substance abuse professional if an external expert is used for evaluation. The evaluation will determine and recommend if substance abuse treatment or education is appropriate and/or necessary.

(iii) The director of human resources and the safety officer will review the recommendation and may determine that rehabilitation is a requirement for any current employee who has an alcohol or drug problem that affects job performance.

(iv) Refusing a drug test will be handled by the director of human resources.

(c) Testing for reasonable suspicion for students. Drug or alcohol testing for students may be ordered by the dean for student affairs if there is a reasonable suspicion of being in class or clinical setting while under the influence of alcohol or drugs. All students with positive results will be referred to the dean for student affairs for further action in accordance with university rule.

(d) Arranging a drug test

When an immediate supervisor believes that drug testing is appropriate, they must contact the department of human resources. The director of human resources who will arrange for the drug or alcohol testing. Drug testing should occur at an approved test site or a local emergency room.

(9) Notification of university security

Any individual observed unlawfully manufacturing, distributing, dispensing, using, or possessing alcohol or illegal drugs on university premises is to be reported immediately to the university office of safety and security.



(10) Office of human resources responsibilities

- (a) The university will inform all employees of the drug-free workplace rule upon employment through the employment website and annually through usual employee communication mechanisms.
- (b) Provide access to training for supervisors and managers.
- (c) Refer and provide appropriate support for employees after drug testing and/or substance abuse treatment or education, facilitate arrangements for testing when there is reasonable suspicion, and consult with departments on individual work agreements for approved returning employees.

(11) Supervisors responsibilities

- (a) Supervisors with reasonable suspicion that a substance abuse problem may be resulting in unsatisfactory work performance should review those problems with their department chair and the director of human resources. This referral should be kept confidential. Workplace performance issues should be documented.
- (b) Supervisors will take corrective action as appropriate after consultation with the office of human resources.
- (c) When there is a suspension of responsibilities directly related to drug or alcohol use, upon authorization to return to work, an individual work agreement should be written in consultation with the director of human resources, the supervisor and the director of occupational safety or equivalent.
- (d) Provide appropriate supervision for employees in accordance with return-to-work agreements.
- (e) Within thirty days of notification of a criminal drug statute conviction, the employing unit, in consultation with the director of human resources, will take appropriate Pub. Law 110-315 personnel actions against the employee. These actions may include discharge, required participation in an evaluation by the employee assistance program or an external substance abuse professional, and/or follow through with substance abuse education/rehabilitation program if recommended by the evaluating employee assistance program.