

Union College

Drug-Free Workplace and Drug/Alcohol Abuse Policy

Frequently Asked Questions (“FAQs”)

The following information addresses the most frequently asked questions about the College’s Drug-Free Workplace and Drug/Alcohol Abuse Policy. The policy is located on the Office of Human Resources website at:

http://www.union.edu/Resources/Campus/human_resources/policies/index.php

- 1. Who does this policy apply to?**
This policy applies to all employees of the College, including faculty, staff, and student employees.
- 2. Why does Union College have a drug free workplace policy?**
The policy complies with the requirements of Federal regulation: Federal Grant Recipient--US Service Code Title 41, Public Contracts--Chapter 10, section 702. The purpose of this policy is to promote the safest possible environment for Union students, employees and visitors.
- 3. How will employees be informed of this policy?**
Union College will communicate this policy annually to existing employees. New employees will be informed about the policy upon acceptance of a position.
- 4. What should be done if the problem involves a student employee?**
The policy applies to student employees. Concerns related to student employees should be resolved by following the steps designated for all other employees. For assistance with alcohol or drug concerns, students can contact the Counseling Center at 518-388-6161.
- 5. What is the policy regarding alcohol at College-sponsored events?**
For guidance on this subject, please see Social Events with Alcohol Policy found in the Student Handbook or contact the Dean of Students Office (518-388-6116) with questions regarding Academic and Social Events.
- 6. What New York State laws are applicable when hosting Social Events with Alcohol?**
Criminal Liability: If all the students attending the event are 21 years of age or older and there is no “sale” of alcohol to the attendees, adherence to applicable New York State laws should not be a problem for such a social gathering (it is not permissible under College policy to use Department funds). However if any of the students attending the event are under the age of 21 years and consume alcohol, the furnishing of that alcohol will constitute a violation of Alcoholic Beverage Control Law §65:

§ 65. Prohibited sales. No person shall sell, deliver or give away or cause or permit or procure to be sold, delivered or given away any alcoholic beverages to

1. Any person, actually or apparently, under the age of twenty-one years; ...

Moreover, Penal Law §260.20(2) provides:

§ 260.20 Unlawfully dealing with a child in the first degree. A person is guilty of unlawfully dealing with a child in the first degree when: ...

2. He gives or sells or causes to be given or sold any alcoholic beverage, as defined by section three of the alcoholic beverage control law, to a person less than twenty-one years old; except that this subdivision does not apply to the parent or guardian of such a person or to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department, where the tasting or imbibing of alcoholic beverages is required in courses that are part of the required curriculum, provided such alcoholic beverages are given only for instructional purposes during classes conducted pursuant to such curriculum. It is no defense to a prosecution pursuant to subdivision two of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such. Unlawfully dealing with a child in the first degree is a class A misdemeanor.

A parent of a child under the age of 21 years of age who was furnished alcohol could pursue a complaint with the Schenectady Police and the Schenectady County District Attorney's Office.

Tort Liability: General Obligations Law §11-100 imposes tort liability upon persons unlawfully furnishing alcoholic beverages to legally under age persons whose intoxication causes injuries:

§ 11-100. Compensation for injury or damage caused by the intoxication of a person under the age of twenty-one years.

1. Any person who shall be injured in person, property, means of support or otherwise, by reason of the intoxication or impairment of ability of any person under the age of twenty-one years, whether resulting in his death or not, shall have a right of action to recover actual damages against any person who knowingly causes such intoxication or impairment of ability by unlawfully furnishing to or unlawfully assisting in procuring alcoholic beverages for such person with knowledge or reasonable cause to believe that such person was under the age of twenty-one years.

This statute is similar to the original Dram Shop Act; but, unlike the original statute which relates to the commercial sale of alcohol, this Law imposes liability upon persons unlawfully furnishing alcoholic beverages to underage students.

7. **If an employee assumes the role of “responsible person” for a Social Event with Alcohol (e.g., a Minerva Event or “Academic Social Event”), what are an employee’s obligations?**

In accordance with College Policy, the responsible person(s) assume the responsibility for managing the Event in accordance with the requirements of the Social Events with Alcohol Policy (as well as any additional requirements imposed by the Dean of Students). Some of the requirements include that an intoxicated person must NOT be served. Someone arriving in an intoxicated condition (even if 21 years of age or older) must be denied entrance. As well, the amount of beer and wine and non-alcoholic beverages made available must be in proportion to the number of guests who will be above and below the age of 21. As such, it is incumbent upon the “responsible person” to ensure that those drinking or being provided with alcohol are of legal drinking age and the event is being held in compliance with New York State law. Responsible persons may call the Union College Campus Safety Department and/or the Dean of Students or his or her designee for assistance with any alcohol violations or difficult situations which may arise during an event with alcohol.

8. **Assuming that I am not a responsible person for a Social Event with Alcohol, but while in attendance at an Event I observe a student that appears intoxicated, do I have a duty to intervene?**

Tort law involving colleges and students are in a state of evolution. Generally speaking, courts have held that if the student’s drunkenness contributes to an injury of a person or property, it is the student who is responsible for the injury; the courts generally refrain from holding the college liable. If an employee observes an intoxicated individual or individual under age 21 drinking at an Academic Event or Social Event with Alcohol, the prudent course of action would be to alert the responsible person in charge of the Event.

9. **What should be done if an employee informs a chair/supervisor that she/he has a drug or alcohol problem or is in a treatment program?**

Drug and alcohol treatment programs are legitimate reasons to use paid or unpaid leave time. Managers should advise the employee that the College’s Employee Assistance Program (EAP) is available if the employee is seeking treatment or additional assistance. The Human Resources Director and employee should discuss the impact of alcohol and drug use if the employee is working in a job that poses safety issues.

10. **Are chairs/supervisors required to address drug or alcohol related issues that impact work once they become aware of them?**

Yes. Supervisors are required to report any alcohol or drug use in the workplace of which they have knowledge. Failure to do so could expose the chair/supervisor to personal liability and disciplinary action.

11. **What should chairs/supervisors do when they suspect that alcohol or drug use is affecting an employee’s work performance?**

Chairs/Supervisors must focus on work performance issues. This includes documentation and counseling about unacceptable performance and behavior. Chairs/Supervisors should discuss the facts with the Director of Human Resources (518-388-6108).

12. **What behaviors or signs indicate drug and/or alcohol use?**

Common indirect indicators (if present, may indicate possible drug or alcohol use):

- Missed work time
- Long breaks
- Patterns of absence (Monday mornings, Friday afternoons)
- Unexplained mood swings
- Sudden changes in performance
- Gradual worsening of performance

If these conditions appear or persist, chairs/supervisors should discuss them with the employee and document them as work performance issues. Chairs/Supervisors may also want to note the impact of the performance or behavior upon the unit's ability to meet its goals. For further guidance, chairs/supervisors may seek assistance from Human Resources (518-388-6108).

Common direct indicators (if present, seek assistance on testing for reasonable suspicion):

- Difficulty walking
- Slurred speech
- Smell of alcohol on breath
- Severe confusion or disorientation

These conditions indicate a high probability that the employee is currently under the influence of drugs or alcohol. Certain medical conditions can also cause these symptoms, thus, it is important to troubleshoot the situation before taking action. The chair/supervisor should contact Human Resources (518-388-6108), inform the Director of the status of the impaired employee, and seek guidance.