

Model Alcohol- and Drug-Free Colleges and Universities Act

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Model Alcohol- and Drug-Free Colleges and Universities Act

Policy Statement

Despite a legal drinking age of 21, alcohol is the drug most widely abused on American college and university campuses. The Office of Substance Abuse Prevention recently summarized the alcohol and other drug abuse situation among college and university students in the following manner:

“Unfortunately, in terms of negative influences and attitudes that foster dangerous and unhealthy behavior related to alcohol and other drug use, the college campus is one of the worst places in the United States for a young person to be. Although illicit drug use is steadily declining among college students, nearly every drinking pattern among college undergraduates (most of whom are under 21) reflects overconsumption, excessive risk taking, and a panoply of destructive outcomes directly caused by alcohol use. These outcomes include freshman dropout rates, auto crashes, date and gang rape, assaults, vandalism, injuries and fatalities, and high rates of death in later life from alcohol-related causes.” (A Promising Future: Alcohol and Other Drug Problem Prevention Services Improvement, OSAP Prevention Monograph 10)

The Commission recognizes the traditional autonomy of colleges and universities and understands that colleges and universities do not wish to have state governments setting their policies. However, the problems associated with alcohol and other drugs by members of the college community are not confined to the boundaries of the campuses. Alcohol and other drug problems involving college students have become public health and public safety concerns that the state legislature feels obligated to address.

This legislation intends to provide a framework for colleges and universities to address alcohol and other drug abuse in a comprehensive fashion. This Act requires colleges and universities to develop and implement comprehensive, detailed strategies that assure to the highest degree possible that underage drinking and alcohol and other drug abuse by students is curbed through the use of preventive and educational programming, student assistance programs, counseling, and referrals to treatment. This legislation also proposes off-campus alcohol consumption reduction strategies and more effective enforcement of policies and laws. This Act is modeled in part after the federal Drug-Free Schools and Campuses Act and proposed legislation in Washington state and Mississippi.

The goal of this legislation is not to identify and punish alcohol or other drug abusing students. This Act seeks to use institutions of higher education as points of intervention to prevent alcohol and other drug abuse where possible, to identify students engaging in abusive behavior involving

alcohol and other drugs, and to enable such students to receive appropriate treatment and education. Also, this legislation is not intended to be burdensome to colleges and universities. Many institutions of higher education already have developed student assistance programs, employee assistance programs, and innovative alcohol and other drug abuse programs and substance abuse rules in place. This legislation builds upon those efforts.

The strategies developed in accordance with this legislation may compel colleges and universities to develop partnerships with local agencies and resources. Partnerships between colleges, universities, local governments, law enforcement, community groups, and prevention and treatment programs can help insure that institutions of higher learning develop effective strategies and programs to reduce the harmful consequences of alcohol and other drugs.

Higher education is not intended to provide a hiatus from responsibility to the laws of this state. College students are just as responsible for maintaining acceptable standards of personal behavior as other citizens. Colleges and universities can play a key role in the development of responsible students by encouraging and demanding responsible behavior.

Alcohol abuse among college and university students poses serious problems that require comprehensive responses. Colleges and universities must lead the effort to reduce alcohol and other drug abuse among their students by honestly addressing those problems and implementing effective responses.

Highlights of the Model Alcohol- and Drug-Free Colleges and Universities Act

ASSUMPTIONS AND REMEDIAL GOALS

- Recognizes that alcohol is widely used and abused by college-aged students, even though such use is illegal for most undergraduates.
- Recognizes the scope of alcohol abuse among college and university students.
- Recognizes the impact of that abuse, in terms of increased injuries, legal difficulties, drop-out rates, criminal activity, and fatalities.
- Recognizes that much can be done by colleges and universities to address many of the problems of alcohol and other drug abuse among their students.

SPECIFIC RECOMMENDATIONS

- Provides that all colleges and universities receiving any state funding or assistance develop and submit comprehensive plans to combat student alcohol and other drug abuse.
- Provides that the comprehensive plans:
 - Establish rules, regulations, and sanctions concerning the possession, consumption, or use of alcohol and other drugs by members of the student body, and a plan for the enforcement of such procedures and sanctions;
 - Describe a procedure for notifying current and incoming students, parents of students, and faculty members of the existence of such policies;
 - Give details of existing on-campus student assistance programs and describe outreach efforts to inform and encourage students to use these resources;
 - Give details of existing employee assistance programs;

- Outline or create a process by which students who violate alcohol and other drug policies are assessed for alcohol and/or other drug abuse problems, referred to appropriate education, counseling, or treatment services, and disciplined, where appropriate.
- Include a description of rules and a plan for their enforcement that will limit the accessibility of alcohol to underage students at school- and student-sponsored events, including sporting events.
- Include strategies for combatting alcohol and other drug abuse and underage drinking in off-campus student residences or organizations that are officially associated with or recognized by the college or university, such as fraternities or sororities. The strategies shall include, but not be limited to, a program of certification of off-campus student groups.
- Provides a procedure for reporting drug trafficking crimes by college and university students to local law enforcement authorities.
- Provides sanctions for the failure of a college or university to develop and implement such a comprehensive plan to combat student alcohol and other drug abuse in accordance with this Act. Such sanctions include the loss of state funding to the college or university or the designation of a portion of such state funding to properly implement the provisions of this Act.

Model Alcohol- and Drug-Free Colleges and Universities Act

Section 1. Short Title.

The provisions of this [Act] shall be known and may be cited as the “Model Alcohol- and Drug-Free Colleges and Universities Act.”

Section 2. Legislative Findings.

(a) Alcohol is widely used and abused by college-aged students, even though such use is illegal for most undergraduates.

(b) Students attending colleges and universities get drunk more often than do their counterparts who do not attend colleges and universities, according to annual surveys of high school, college students, and young adults sponsored by the National Institute on Drug Abuse.

(c) College students will spend about \$5.5 billion yearly for alcoholic beverages — more than is spent on operating campus libraries and college scholarships and fellowships combined throughout the United States, according to a 1991 Office for Substance Abuse Prevention White Paper.

(d) The same Office for Substance Abuse Prevention White Paper, “Alcohol Practices, Policies, and Potentials of American Colleges and Universities,” notes that as many college students eventually will die of alcohol-related causes — often based on habits begun in college — as will receive their masters’ and doctors’ degrees. Among those currently in college, between 240,000 and 360,000 eventually will lose their lives due to drinking, roughly equivalent to the entire undergraduate student body of the “Big Ten” universities.

(e) According to extrapolations of data provided by the National Institute on Alcohol Abuse and Alcoholism and the Department of Health and Human Services, college students on average consume 34 gallons of alcoholic beverages per person annually, 30 gallons of soft drinks, and 5.5 gallons of fruit juices.

(f) A Southern Illinois University/College of William and Mary survey of 58,000 college students from 78 different colleges and universities found that students under the age of 21 drink more alcohol and suffer more hangovers, injuries, and legal difficulties than those over 21. The study found that about 48 percent of college students under 21 reported consuming five or more drinks in one sitting during the two weeks before the survey, compared with 35 percent for students over 21.

(g) Alcohol use often is associated with criminal behavior, risky behavior, and accidents. One 1991 college alcohol survey cited by the Office of the U.S. Surgeon General found that alcohol use was associated with damage in residence halls in 68 percent of reported cases, 70 percent of reported cases of violent behavior, 53 percent of physical injuries, 41 percent of academic problems, and 28 percent of drop-outs.

(h) Another campus study found that students who reported committing a campus crime cited more frequent alcohol and other drug use than students who had not committed a crime since enrolling in college. The same study also determined that the more violent campus crimes were associated with more frequent alcohol and other drug use, and victims of campus crimes reported more frequent alcohol and other drug use than students who had not been involved in crime. According to the U.S. Department of Health and Human Services, one study found that among college students who committed rapes or sexual assaults, 55 percent were under the influence of alcohol; 53 percent of rape and sexual assault victims were under the influence of alcohol.

(i) Nearly four percent of college students — nearly one-half million students — drink alcohol every day, according to the Office for Substance Abuse Prevention.

(j) A 1990 Carnegie Foundation survey of college presidents cited alcohol abuse as the campus life issue of greatest concern.

(k) The National Commission on Drug-Free Schools' 1990 final report, "Toward a Drug-Free Generation: A Nation's Responsibility," notes: "Few schools and colleges have developed comprehensive anti-drug programs. Colleges especially are just beginning to address the needs of all students for drug education and prevention programs." The same report recommended that colleges and universities "prohibit all alcohol and tobacco advertising in school newspapers, at stadiums, and at all school events," "include alcohol and tobacco in the school's drug prevention curriculum," "provide adequate support programs for students and staff who need help combatting drinking or smoking problems," and "develop and conduct programs to education and change attitudes of parents and alumni about drugs, including alcohol and tobacco," among other recommendations.

Section 3. Purpose.

This [Act] requires all colleges and universities in the state to develop and submit a comprehensive plan to combat student alcohol and other drug abuse, including underage drinking. By requiring details of related student and employee services, underage drinking reduction programs and strategies, and enforcement activities, this [Act] encourages colleges and universities to focus on the problems associated with student alcohol and other drug abuse and to take proactive steps to address them.

Section 4. Definitions.

As used in this [Act]:

- (a) "Alcohol and other drug abuse problem" means any pattern of alcohol and/or other drug use causing impairment in school or social functioning, or that produces physiological dependency evidenced by physical tolerance or withdrawal.
- (b) "Employee assistance program" means a worksite-based program using licensed employee assistance professionals and designed to assist in the identification and resolution of health, behavioral, or productivity problems associated with employees impaired by personal concerns, including alcohol and other drugs, health, emotional, marital, family, financial, legal, stress, or other personal concerns that may adversely affect the employees' well-being or job performance.
- (c) "Manufacture," "sale," "distribution," and "possession with intent to sell or distribute," "possession,"

and "use" shall have the same meaning as those terms are used in [cite to applicable state controlled substance act].

(d) "[Single state authority on alcohol and other drugs]" means the state agency designated by the governor to plan, manage, monitor, and evaluate alcohol and other drug treatment services in the state.

(e) "Student assistance program" means a broad-based program involving a variety of school-based personnel. It is designed to assist in the identification and resolution of school-related problems associated with students who are affected by personal concerns, including, but not limited to: health, family, alcohol and other drugs, financial, legal, emotional, stress, and/or other concerns that may adversely affect educational performance.

(f) "Underage" means less than 21 years of age.

Section 5. Formulation of Comprehensive University and College Plans to Combat Student Alcohol and Drug Abuse.

No later than [], each of the state universities, regional universities, and colleges receiving funds or any other form of financial assistance, including participation in any state funded or guaranteed student loan program, from the state or any political subdivision shall submit to the state [higher education coordinating board] and the [single state authority on alcohol and other drugs] a comprehensive plan to combat student alcohol and other drug abuse, including underage drinking. The comprehensive plan must include means for assuring to the highest degree possible that underage drinking and alcohol and other drug abuse by college or university students is curbed.

(a) The comprehensive plan shall:

- (1) Establish clear college or university rules, regulations, and sanctions concerning the possession and consumption or use of alcohol and other drugs by members of the student body, and a plan for the enforcement of such procedures and sanctions;
- (2) Describe the procedure by which current and incoming students, the parents or guardians of underage students, school employees, and faculty members are notified of the existence of such alcohol and other drugs policies;

- (3) Provide details of existing on-campus student assistance programs and alcohol and other drug education and counseling programs available to students and describe outreach efforts to inform and encourage students to use these resources;
- (4) Provide details of existing on-campus employee assistance programs and alcohol and other drug education and counseling programs available to faculty members, administrators, and all other school employees and describe outreach efforts to inform and encourage employees to use these resources;
- (5) Outline or create a process by which students who violate the college's or university's alcohol and other drug policies are:
- (A) Assessed for any alcohol and/or other drug abuse problems, referred to appropriate education, counseling, or treatment services, and disciplined, where appropriate; and
 - (B) Provided details of services that will be offered to students who are so assessed and referred;
- (6) Include a description of rules and a plan for their enforcement that will limit the accessibility of alcohol to underage students at school- and student-sponsored events, which may contain, but not be limited to, the following elements:
- (A) Disallowing the service of alcohol at events and locations where it appears probable that at least [two-thirds] of the attendees will be under the minimum drinking age;
 - (B) Providing that direct access to alcoholic beverages at campus events be limited to designated "servers;"
 - (C) Using age-indicative school identification cards, such as those bearing student birthdates or featuring profiled head photographs of underage students; and
 - (D) Enforcing sanctions against students 21 or older who provide alcohol to underage students.
- (7) Include strategies for combating alcohol and other drug abuse and underage drinking in off-campus student residences of organizations that are officially associated with or recognized by the university or college, such as fraternities and sororities.

The strategies for combating alcohol abuse and underage drinking shall include, but not be limited to, a program of certification of student groups containing the following elements:

- (A) A procedure for certification of student groups and inspections of student housing. In order for a student group that provides housing to ten or more students to be eligible to receive a financial benefit or other benefit of association with the college or university, such as use of campus facilities, lists of incoming students, or lists of students seeking housing, the student group must:
 - (i) agree to abide by a code of conduct designed to prohibit underage drinking and to curb alcohol and other drug abuse; and
 - (ii) agree to submit to random inspections of the residence to determine compliance with the code of conduct. The inspection team shall include, but not be limited to, at least one college or university administrator, at least one representative of the student body or student newspaper, and one college or university security officer; and
- (B) A progressive penalty scheme for violations of the code of conduct. The first violation of the code within one academic year shall result in the student group being placed on probation with conditions to be determined by the college or university. The second violation of the code within one academic year shall result in a suspension of certification for at least [one month]. The third violation of the code within one academic year shall result in decertification of the student group. Upon decertification of a student group that is a member of a national or other parent organization, the college or university shall immediately notify the national or parent organization that the student group is no longer in good standing at the college or university.
- (8) Establish a specific policy statement concerning the use or non-use of alcohol and other drugs at membership recruitment functions, including fraternity/sorority rush, departmental clubs, and special interest groups, whether on or off campus. A process for distributing said policy statement to all

appropriate organizations should be established; and

(9) Establish a specific policy statement concerning the use or nonuse of alcohol and other drugs in athletic facilities or at athletic events, applied equally to all students, faculty and staff members, alumni/ae, and others who attend that college's athletic events or who use its facilities. A process for distributing said policy statement to all students, faculty and staff members, alumni/ae, and other attending athletic events or using athletic facilities should be established.

(b) Copies of the comprehensive plan must be submitted to the [state higher education coordinating board], the [single state authority on alcohol and other drugs], and the appropriate local law enforcement entity or district attorney's office no later than two years after this legislation is enacted.

(c) In subsequent years, the comprehensive plan must be submitted to the [state higher education coordinating board] and the [single state authority on alcohol and other drugs] by July 1 of each year.

(1) In each subsequent year, colleges and universities subject to the provisions of this [Act] must report on what they accomplished and implemented with regard to this [Act] during the past school year.

(2) Each subsequent report must include, but is not limited to:

(A) Descriptions and data regarding the nature and prevalence of alcohol and other drug problems among their students, faculty, and staff;

(B) Descriptions of program development and activities; and

(C) Enforcement activities.

COMMENT

This section, modeled in part after the federal Drug-Free Schools and Campuses Act, requires all colleges and universities in the state to develop and submit a comprehensive plan to combat student alcohol and other drug abuse, including underage drinking. What the Commission intends to achieve by requiring such provisions at the state level is the assurance that colleges and universities do not forsake their responsibility to create and maintain learning environments in which the

goals of the schools are not compromised by alcohol and other drug problems.

Included in the comprehensive university plans must be details of existing on-campus student assistance programs and employee assistance programs to help alcohol and other drug-involved students and employees receive counseling and/or referral to appropriate education and treatment programs. Also, the plan must describe the process by which such assessments and referrals take place. It is the Commission's intent that colleges and universities will seek to use such requirements as a means to identify and assist substance abusing students and employees, rather than simply to punish, expel, or fire them.

The comprehensive plan also requires effort on the part of colleges and universities to devise strategies for limiting the accessibility of alcohol to underage students at school- and student-sponsored events, athletic events, and off-campus student residences of college- or university-affiliated organizations. While these provisions are more stringent than those found in the federal Drug-Free Schools and Campuses Act, the Commission believes they are necessary components of colleges' and universities' attempts to become proactive participants in the effort against student alcohol and other drug abuse.

Colleges and universities have become increasingly concerned about the prevalence of alcohol and drug abuse in general, and underage drinking in particular. Many colleges and universities already have instituted student assistance programs, employee assistance programs, and other services and innovative strategies to address alcohol and other drug abuse. For those that have, this [Act] should not prove burdensome.

For those colleges and universities that have not, the Commission acknowledges that the provisions of this section may create additional costs. However, the Commission anticipates that these costs will be offset in the long run by lower student and employee health care utilization, reduced costs associated with alcohol and other drug related crimes, and other beneficial reductions in alcohol and other drug problems. It is the Commission's hope that colleges and universities will be willing, at a minimum, to take these comprehensive steps to influence or address the areas over which they retain a degree of control to reduce the incidence of alcohol and other drug abuse.

Section 6. Reporting Campus Drug Trafficking Crimes to Local Law Enforcement.

Included in the comprehensive university plan must be a system for reporting drug trafficking crimes by college and university students to local law enforcement authorities.

(a) A designated employee of state universities, regional universities, and colleges receiving funding or tax benefits from the state shall notify the police department or county sheriff of the municipality in which the institution is located if the employee has reasonable grounds to believe that the manufacture, sale, distribution, or possession with intent to sell or distribute marijuana or any controlled substance, as defined by the state [controlled substances act] has occurred on the campus of the institution, or in facilities or off-campus housing of organizations that are associated with or recognized by the college or university, or at an institution-sponsored or institution-related activity on or off the campus, without regard to whether the activity is investigated by campus security personnel.

(b) This section applies to:

(1) Public institutions of higher education, as defined by the [state education code]; and

(2) Private institutions of higher education that receive funds or any other form of financial assistance under any state program, including participation in any state funded or guaranteed student loan program.

(c) The notification under this section will be given within 24 hours after the time the listed activity is first reported to any employee of the institution and must include the name and address of any student who is enrolled in the institution and who is known by the reporter to have been a possible participant in the activity.

(d) Notification is not required by this section if the designated employee reasonably believes that the activity does not constitute a criminal offense.

(e) Each institution subject to this section shall designate an employee to be responsible for the notification required by this section. The employee is not liable in civil damages for reporting in good faith as required by this section. An employee who fails to report as required by this section commits a summary offense.

COMMENT

Although underage college and university students are more likely to abuse alcohol and other drugs than others their age, they often are treated as a privileged class and at times are less likely to be held accountable to the law when caught violating alcohol and other drug abuse laws. In many cases, college students caught violating alcohol laws are only subject to university procedures; however, their same-age counterparts may face criminal charges for similar violations. The purpose of this section is to hold college and university students equally accountable under the law.

It is the intent of the Commission that college and university students be held to the same standard of behavior as their non-college-attending counterparts. However, it is also the intent of the Commission that rather than singularly punitive sanctions being applied, law enforcement, courts, and university sanctioning bodies consider the penalties described in the [Model Underage Alcohol Consumption Reduction Act], found in Volume V, Drug Free Families, Schools, and Workplaces. These penalties seek to address alcohol and other drug abuse while also providing mechanisms through which alcohol- and other drug-involved offenders may find assistance in addressing their substance abuse problems. Strictly punitive approaches to address alcohol and other drug abuse may not help those most in need of assistance, but rather, may drive serious problems underground or further into denial.

While the Commission encourages that colleges and universities assist alcohol or other drug abusing students to enter into treatment, the Commission does not in any way condone drug trafficking violations committed by college or university students. Drug traffickers should be reported to law enforcement agencies, prosecuted for these offenses, and punished upon conviction. The Commission intends that those individuals fulfill those court-ordered sentences. The Commission does not intend this legislation to allow such individuals to avoid their sentences for trafficking offenses by entering into a treatment program in accordance with the provisions of the [Model Underage Alcohol Consumption Reduction Act].

Section 7. Sanctions.

(a) Failure to develop and implement such a comprehensive plan to combat student alcohol and other drug abuse, including underage drinking, within two years after the enactment of this legislation and to maintain such implementation every year thereafter, may result in the following action by the state [higher education coordinating board], in consultation with the [single state authority on alcohol and other drugs]:

(1) Recommending to the state legislature that the college or university not be eligible to receive full annual funding or any other form of financial assistance under any state program, including participation in any state funded or guaranteed student loan program, until the college or university acts in accordance with the provisions of this [Act]; or

(2) Designating by the [higher education coordinating board] a portion of state funding to the college or university deemed sufficient by the state [higher education coordinating board], in consultation with the [single state authority on alcohol and other drugs], to implement the programs and processes required under this [Act]. Under such circumstances, the [single state authority on alcohol and other drugs], or its designee, shall oversee the implementation of such programs, and, if necessary, shall assume responsibility for such implementation until the [higher education coordinating board], in consultation with the [single state authority on alcohol and other drugs], determines that the college or university is acting in accordance with the requirements of this [Act].

(b) The state [higher education coordinating board] shall promulgate rules and regulations to implement and enforce the provisions of this section.

COMMENT

It is imperative that colleges and universities make every effort to combat student alcohol and other drug abuse, including underage drinking. By being required to provide details of related student and employee services, underage drinking reduction programs and strate-

gies, and enforcement activities, colleges and universities will take proactive and effective steps to address this problem.

Again, for those colleges and universities that have already begun to take proactive steps by instituting student assistance programs, employee assistance programs, and other services and innovative strategies to address alcohol and other drug abuse, this [Act] will not prove burdensome. For those colleges and universities that have not, this [Act] will require them to take steps to reduce the incidence of alcohol and other drug abuse on their campuses. The Commission believes that the additional costs incurred by effective, earnest efforts to reduce alcohol and other drug abuse will be offset in the long run by a reduction in problems associated with such abuse.

Failure to develop and implement a comprehensive alcohol and other drug abuse reduction plan, as required by this [Act], could result in drastic action against the college or university, including the loss of state funding or the designation of state funds to that college to be earmarked to fully implement the programs and processes required by this legislation.

Section 8. Severability.

If any provision of this [Act] or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the [Act] that can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

Section 9. Effective Date.

This [Act] shall be effective within two years after its adoption to allow for proper planning and implementation of its sections and shall begin with the [reference to specific date] school year.