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Alcohol and Substance Abuse in Higher Education: Suggestions for Student Affairs Professionals

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Alcohol and Substance Abuse in Higher Education: Suggestions for Student Affairs Professionals

Western Kentucky University

CNS 670: Parameters of Law in Higher Education

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Underage Drinking

The following document outlines policies and procedures for student affairs professionals enforcing alcohol regulations on their campuses. Information presented should be relevant for any student affairs professionals, but recommendations should be modified to meet the specific needs of individual campuses.

Underage Drinking: consumption of an alcoholic beverage by an individual under the legal drinking age

- The National Minimum Drinking Age Act of 1984 prohibited individuals under 21 years of age to purchase or possess alcoholic beverages. Although the National Minimum Drinking Age Act did not set a specific minimum age for consuming alcohol, all of the states have since passed legislation making it illegal for individuals under 21 years of age to consume alcohol; however, some states have passed criteria that would qualify underage individuals to be exempt from the law in certain situations. You should review your alcohol laws and regulations for your individual state, county and city to ensure you are educated on all possible scenarios.

Incidents of Underage Drinking on college campuses

- In the fall of 2013 there were 12 fatal incidents involving underage drinking on college campuses. Below are some incidents that have received national coverage.

- Clayton Real, 18, was found dead in the University of Nebraska at Lincoln's Farm House fraternity house following a September party. Clayton, along with other underage students, were provided alcohol by the fraternity members.
- Naomi McClendon, 18, was attending a party at an Arizona State unchartered fraternity, Alpha Epsilon Pi. Naomi consumed a large quantity of vodka in March 2013 and then was taken home to her apartment where she straddled her balcony railing and then fell over the railing to her death.
- Kinara Patel, 18, died of alcohol poisoning in her residence hall room at Villanova University in August of 2013. Kinara had been drinking at a residence hall party and then continued to drink at a local bar.

Recommended Best Practices

As an Institution there are a few things you should be doing to ensure you are providing a safe environment for your student and that will protect you should an incident occur on your campus.

- Publish the institution's policy on alcohol consumption
- Provide alcohol-free housing for undergraduate students
- Provide alcohol education on campus
- Provide alcohol-free programming for students

Publish the institution's alcohol policy

Having a written document that clearly outlines the institution's policies regarding alcohol and alcohol consumption on campus is important; however, this document is nearly worthless if it is not easily accessible and understood by the student body of the institution. Below are a few examples of institution alcohol policies and some best practices for making students aware of them:

“3. Alcohol. Western Kentucky University complies with the alcohol regulations of the Commonwealth of Kentucky. Members of the university community recognize that a violation of any federal, state and local laws governing the use and possession of alcoholic beverages, including off-campus, is prohibited. Examples may include but are not limited to Driving under the influence (DUI), being assessed as intoxicated in public (AI or PI) and underage possession/consumption. The University prohibits the possession, furnishing or use of alcoholic beverages (including wine and beer) by student residents of campus housing and/or guests of students in residence halls. The University prohibits the use of rapid consumption devices or drinking games including, but not limited to, kegs, bongos, funnels and beer pong.

As a member of the WKU community, students agree to:

1. Abide by all state laws and university policies governing the use of alcoholic beverages and drugs
2. Support, in their decisions and behavior, an environment in which individuals can make informed, healthy, and responsible decisions about alcohol and drugs;
3. Discourage the illegal or irresponsible behavior of others; and

4. Assume responsibility for their decisions and behaviors and accept the consequences resulting from those decisions and behaviors.”

“The University of Evansville prohibits the possession, consumption, use, or sale of unauthorized prescription drugs, Illegal drugs, or alcohol on campus, at any student campus activity, or in any campus living units occupied by students, including University-approved housing. Students present in a residential facility where alcohol or illegal drugs are present are also subject to disciplinary action. While the University cannot control off-campus situations, the University does not sanction student organization sponsored events held off-campus which include alcoholic beverages. At no time can student activity funds be used for the purchase or promotion of alcoholic beverages at a student organization sponsored event. The institution does not prohibit events being held in facilities where alcohol is sold by the facility or business to those of legal age. The laws of the State of Indiana regarding the purchase and possession of alcoholic beverages will be upheld on campus. These laws may be enforced by University staff or local or state authorities.

Best Practices

- Frequently discuss the institution’s alcohol policy and possible disciplinary actions with your students. Discussions should occur multiple times and in multiple forms during the new student orientation process, during new parent orientation and during residence hall meetings. Discussion methods can include printed handouts, PowerPoint slides, lectures, skits, etc.

Alcohol-free housing for underclassmen

- By providing alcohol-free housing for underclass students, you are providing an environment conducive for the student's scholastic endeavors, growth and maturity as they explore independent living and making wise decisions.
- Alcohol-free housing will also separate underage students from any alcohol related activities that may occur on your campus.

Alcohol-free programming on campus

- Alcohol-free programming for students provides a fun and safe environment for students outside of the classroom while also showing alcohol is not need to have fun.
- Alcohol-free programming will also assist in disproving any misconceptions students might have regarding the amount of alcohol consumed by the student body on a regular basis.

Alcohol education on campus

- Alcohol education can be provided in many ways and should cover a variety of topics; even if your campus is "dry", you should still provide alcohol education to your student body. Your alcohol education programing should address the following areas:
 - o The student perception of alcohol consumption on campus

- Most students assume a higher consumption of alcohol occurs on their campus than actually does
- How to drink responsibly
 - What constitutes a drink
 - What are the warning signs of alcohol poisoning
 - What are consequences of alcohol poisoning
 - How to get help if needed
- Good Neighbor or LifeLine laws
 - Do institution policies or state legislation exist that provide exemptions from legal ramifications for students seeking help for victims of alcohol incidents?

Enforcement of your alcohol policy

Holding students accountable for your alcohol policy is another area requiring lots of attention to ensure you will not lose any lawsuits filed against you or your institution. It is important to remember that students have rights and those are not to be violated. Below are some best practices.

- Use consistency in your policing of the policy
 - If you are going to actively search out alcohol offenders, then you must actively search for offenders on a regular basis and through the whole student body, not just students you feel will violate the policy.
- Do not use social media to search for alcohol violations

- Images can be deceiving and difficult to prove what is actually happening
- Use consistency in deciding which students to discipline
 - Deciding between pouring out a student’s alcohol and pushing the student through your institution’s judicial system can lead to discrimination lawsuits. Ensure you have a consistent reason for allowing some students “to get off easy” and others to experience the judicial system.
- Disciplinary actions should be fair and consistent
 - Treat disciplinary actions as a learning opportunity, in addition to a punishment
 - Be aware of FERPA, but do not hesitate to notify parents of alcohol issues with their underage students

Handling incidents internally versus externally

Many institutions have different approaches and methods they use in policing their campus; some may determine it is in the best interest of the institution to handle all alcohol related incidents internally through campus security and the judicial affairs office.

Other institutions may determine it is better for those incidents to be handled externally by the local or state law enforcement.

Handling incidents internally

- Benefits of handling incidents internally

- Opportunity to keep students from having legal charges filed against them, as well as an opportunity to protect the image of the institution.
- Can turn incident into a “teachable moment” and can assist in the learning process for the student via institution’s consequences
- Risks of handling incidents internally
 - Students might take advantage of more lenient enforcement by the institution and not learn from past mistakes
 - Improper handling of incidents could result in legal issues for institution

Handling incidents externally

- Benefits of handling incidents externally
 - “blood is not on your hands” since local or state law enforcement is handling the enforcement and punishment for alcohol violations
 - More uniform enforcement will occur in regards to alcohol policies
- Risks of handling incidents externally
 - Higher reported number of alcohol related incidents will be published
 - Potential distrust of administration from student body

Dry Campus vs. Wet Campus: Who is Liable?

There is no doubt in anyone's mind that college students (generally speaking) drink. But how do college administrations protect themselves? Are they liable for intoxicated students? And is a "dry" campus really dry?

All across the country, there have been countless debates between college students, faculty, professors, and parents. One of the most popular arguments against a dry campus is that college students are going to drink no matter what. The drinking might as well be in a safe location, where no driving is necessary, and where public safety can keep better control of who is drinking, and where. The University of Denver's Greek system went dry in 2001, and since then, DUI's and PI's have increased significantly.

According to an opinion article from Manchester University in Indiana, almost every "wet" campus in the United States still has an extremely rigid alcohol policy and student code of conduct. Some of these limitations include who can drink (students over the age of 21,) where students can drink (i.e., an on-campus bar, 21+ apartments on campus, tailgating areas.) The argument can be made that if you are over 21, you are an adult, even if you are a college student. Therefore, you have the right to make your own (bad) decisions. Being trusted to drink responsibly, while following the rules, could instill a sense of responsibility in students who are legally allowed to partake.

Those arguing the case for a dry campus (and it's not just parents and administration) point out the obvious problems that could stem from allowing alcohol on campus. Student injuries, academic problems, and sexual harassment or assault numbers

could increase, and could put the college or university in danger of being sued or viewed as negligent in the public eye.

Liability

Wet Campus: The liability lies with the university, as long as the student is following all limitations, policies, and codes of conduct.

Dry Campus: The liability lies with the student, as long as all limitations, policies, and codes of conduct are clearly written out and are accessible to the students.

Western Kentucky is traditionally labeled a dry campus, although alcohol is allowed for tailgating and sold at football games. Their alcohol policy is clearly written out, published, and students are made aware of both where to find it, and what it says.

The most important way a university can protect itself is to know when they may be liable. A university, wet or dry, should use the following tips for prevention and management:

- Clearly publish all limitations, policies, and codes of conduct expected from the students in terms of alcohol consumption.
- Create a plan for students who break the code of conduct, not only for a first offense, but also for multiple offences.
- Educate students about alcohol consumption: the risks, what constitutes a drink, and reinforce rules and regulations.
- Communicate: if a student has a problem managing alcohol consumption, stress, or depression, give them access to the help

they need, whether it's an advisor, a resident advisor, a doctor, or a counselor.

- Connect with the community. If you are a dry campus, establish a shuttle or bus system to make sure students are getting home safely, and not choosing to drive.
- Maintain a good relationship with students, as well as the local police and EMS. If a situation arises where help is needed, students shouldn't be afraid to ask for help.

Drugs on the College Campus

At WKU, as with most institutions, they treat drug offenses differently than they do alcohol violations. This is evidenced by WKU's "Zero Tolerance Drug Policy", where as they have a "3 Strike" rule when it comes to alcohol violations. The rationale behind this is that with alcohol violations (by students under the age of 21), it is the act which is illegal, and with drug violations it is the substance itself that is illegal.

The strictness of drug policies in the halls of higher education, stems not only from internal institutional sources but from external legislative sources as well. According to the *The Handbook for Student Law for Higher Education Administration*, the Drug-Free Schools and Communities Act Amendments, the Drug-Free Workplace Act, and the Higher Education Opportunity Act of 2008 are three key pieces of legislation that provide guidelines for universities' drug policies. (Castagnera, 2014).

College is a time of experimentation, growth, and learning. There are new found freedoms and temptations around every corner. How do we, as student affairs professional, protect our students, educate them, and empower them to make smart decisions when needed? First, be explicit. Clearly defined limitations, policies, rules, and regulations help to eliminate the "grey area". Next, you have to communicate those explicit directives to the campus and its' community. An institutions' drug policy should be easily accessible on its' website, as well as discussed and presented at orientation. Institutions need to educate their students about drugs, drug abuse, and the consequences for such. The faculty and staff needed to be educated as well; they need to be able to recognize the signs of a student who might have a substance abuse problem or even the

possibility of the distribution of drugs in the residence halls among students. Faculty, staff, and students need to be educated in regards to what to do if they think they have a substance abuse problem or maybe have witnessed a drug sale in their residence hall. When instances of drug policy violations do occur, institutions need to make sure they are consistent in their rulings and enforcement of them. If you say you have a zero tolerance policy, then you need to enforce that.

Another area that drug violations may arise is in the sports arena. Most students, faculty, and staff will rarely have to submit a drug test to the university; with the exception of student athletes. The National Collegiate Athletic Association, NCAA, often submits student athletes to random drug testing. How does this affect student affairs professionals?

Those who work with student athletes need to be aware of not only the schools drug policies, state and national laws but the NCAA's regulations as well. They need to be aware of reporting procedures, definitions, exceptions, etc. Drug testing has very clearly defined procedures and protocols laid out by the NCAA. Not knowing that policy or violating that policy can lead to a myriad of issues, as was the case in 2012 with *Spears v. Grambling State University*. Melvin Spears was terminated as the head coach for a few different reasons, one of which was improper drug testing and reporting.

If you do not know your institutions policies, ask. There is no room for assumption when it comes to drugs and substance abuse.

Drug Policies on College Campuses in States That Have Legalized Marijuana Use

In recent years, the cultivation, manufacturing, and utilization of recreational marijuana for those 21 and over has been legalized with the adoption of Amendment 64 in Colorado, Measure 502 in Washington, Measure 91 in Oregon, Measure 2 in Alaska, and Measure 71 in Washington, D.C.. Many pro-legalization activists are “already looking towards 2016, when ballot initiatives in states such as California, Massachusetts, Maine, Nevada and Arizona are likely to be put to voters” (Merica, D., 2014).

College Responses to Recent Drug Policy Changes

As a result, student affairs professionals may be confronted with increasingly convoluted guidelines for student use of recreational marijuana both on and off campus. Most colleges have developed and posted a policy that does not permit students to utilize the drug. For example, Colorado College has stated that they do not allow students to use recreational or medical marijuana due to the following reason: “The federal Drug-Free Schools and Communities Act disallows the use of drugs including marijuana; if the college fails to comply, it could become ineligible for federal funding and financial aid programs for its students” (Tiefenthaler, J. (n.d.). An even more serious reason is that “marijuana remains a Schedule 1 controlled substance under federal law. The United States Department of Justice has not presented a clear or consistent enforcement policy for situations where medical use of marijuana is legal under state or local law” (“Medical Marijuana,” 2014).

At Colorado College, students are not permitted to use the drug on or off of campus, even during breaks: “The Student Code of Conduct applies to behaviors that take place on the campus, at college-sponsored events or programs, and also applies off-campus, when the administration determines that the off-campus conduct has a direct impact on the educational mission and interests of the college” (Tiefenthaler, J. (n.d.). Guests who visit the campus are also not permitted to be under the influence of marijuana while on campus. Similarly, the marijuana policy at California State University at Bakersfield “prohibits marijuana possession and use on campus due to federal regulations (“Medical Marijuana,” 2014).

Other colleges have had to develop more flexible policies in response to medical marijuana claims. For instance, “the University of Colorado at Boulder created an exception to its rule barring first-year students from living off-campus. Responding to the threat of a lawsuit from a student who held a medical marijuana card, UC Boulder decided first-year students who were marijuana cardholders could live off campus—preserving students’ rights to medical marijuana, but also preserving the school’s cannabis-free campus” (“Medical Marijuana,” 2014).

Consequences of Marijuana Use

The frequency with which students smoke marijuana does not seem likely to decrease in the coming years; in fact, research shows that marijuana usage is increasing as laws governing its regulation are becoming more lax. According to an article published in *The New York Times*, “one of 20 college students (one of 11 men) gets high daily or near daily, the highest rate since 1981. To put that in perspective, from 1990 to

1994, fewer than one in 50 students used pot that frequently” (Moore, A.S., Turkewitz, J. 2014). Although recreational use of marijuana is allowed in private environments, “the amendments ban smoking in public — on streets and in parks, shops and restaurants. The same holds for campuses, including university housing” (Moore, A.S., Turkewitz, J. 2014).

Therefore, student affairs professionals are working not only to enforce policies on campus that ban marijuana usage despite its legality off campus, they are also considering the physical and academic ramifications of rampant acceptance of the drug. For example, Dr. Donald A. Misch, associate vice chancellor for health and wellness at the University of Colorado, “is working with other campus officials to increase awareness about the effects of the substance, including its impact on learning. ‘It is not going to turn you into an ax murderer,’ he says, ‘but what I tell people is: The good news is that marijuana is in many ways better than alcohol. The bad news is it’s not as benign as many people want you to believe’” (Moore, A.S., Turkewitz, J. 2014).

Many colleges are moving from an after-the-fact disciplinary approach to more educational and preventative programs. For the students who have already experienced negative consequences due to excessive marijuana usage, some institutions, “including the University of North Carolina at Wilmington, Boston College and the University of Southern Indiana, have been adding programs tailored to marijuana users. C.U.-Boulder offers a tier of psychoeducational options — two levels of individual sessions for mild and more serious users, and a group program for moderate and heavier users” (Moore, A.S., Turkewitz, J. 2014).

Lawsuits Related to Marijuana on Campus

Surprisingly, the top search engine “hit” for lawsuits related to marijuana concern a student group’s First Amendment rights rather than incidents in which students have sued colleges regarding marijuana use on campus. Two Iowa State University students sued school officials after the university’s trademark licensing office “forbade a pro-marijuana group from using the Cy the Cardinal mascot logo on T-shirts...The photo prompted complaints from legislators that using the logo gave the appearance the school endorsed marijuana legalization, officials said” (Rodgers, G., 2014). The president and vice president of the student group claim that the ban ‘hindered NORML ISU from challenging the orthodoxy that marijuana use should be prohibited’ ...Two states have legalized marijuana for recreational use, while 21 have approved medical marijuana” (Rodgers, G., 2014). According to the lawsuit, the T-shirt had been approved prior to the picture being printed in a newspaper article, the publishing of which prompted the university to reconsider its decision.

Implications for Student Affairs Professionals

So far, many campus officials claim that not much has changed with the legalization of recreational marijuana use. At Western Washington University (WWU), Whatcom Community College, and Bellingham Technical College (BTCO) in Washington state pot is banned for students, staff, faculty, and campus visitors (Fraley, Z., 2014). Assistant Dean of Students at WWU Michael Sledge and Communications Director at BTC Marni Saling Mayer both claimed that drug violations on their respective campuses have not increased following the enactment of the new law (Fraley, Z., 2014).

In order to avoid lawsuits, the schools are being as transparent as possible when communicating with students about their drug policies: “In addition to receiving copies of the school’s policies, new students are informed of the drug and alcohol rules at freshman orientation and at meetings in the residence halls at the beginning of the quarter” (Fraley, Z., 2014). The only concern that Sledge cites is “the availability of edible marijuana products, which could be harder to detect and might lead to confusion or overconsumption if packaging is unclear (Fraley, Z., 2014). Therefore, when discussing the new policies with students, colleges should take steps to remind students that edible marijuana is still marijuana (and thus prohibited from campus) and educate students about checking the packaging of food items to ensure that they do not inadvertently ingest the drug.

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