

**Policy 1110
Alcohol and Other Drugs**

Date of Current Revision: May 2018

Primary Responsible Officer: Director of Human Resources

1. PURPOSE

To comply with relevant laws related to the abuse of alcohol and controlled substances and help provide for a healthy and safe university community for employees, students, the local community and campus visitors. In addition, it is the intent of the university to offer support and possible solutions to employees who are struggling with alcohol or other drug-related problems.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

In addition to the Drug-Free Workplace Act of 1988 (US Code Title 41, Chapter 10, Section 701), and the Department of Human Resources Management's Policy [1.05](#)-Alcohol and Other Drugs, the university, as an institution of higher education receiving federal funds, must comply with the requirements of federal regulations concerning drug and alcohol abuse prevention. See US Code Title 20, Chapter 28, Subchapter 1, Part B, Section 1011i. The law requires that, as a condition of receiving funds or any other form of financial assistance under any federal program, including participation in any federally funded or guaranteed student loan program, an institution of higher education must certify that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes:

The annual communication to each student and employee of:

- Standards of Conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;
- a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;
- a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and
- a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct; and

A biennial review by the institution of the institution's program to:

- determine the program's effectiveness and implement changes to the program if the changes are needed; and
- ensure that the required sanctions mentioned above are consistently enforced.

3. DEFINITIONS

Alcohol

Any product defined as such in the Alcoholic Beverage Control Act section 4.1-100 of the Code of Virginia, as amended.

Conviction

A finding of guilt (including a plea of guilty or a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility of determining violations of the federal or state criminal drug laws, alcohol beverage control laws, or laws which govern driving while intoxicated.

Controlled Substance

Any substance as defined in the Drug Control Act 54.1-3400 of the Code of Virginia, as amended, and whose manufacture, distribution, dispensation, use, or possession is controlled by law.

Criminal Drug Law

Any criminal law governing the manufacture, distribution, dispensation, use, or possession of any controlled substance.

Employee

Any person employed by JMU in any capacity.

Employee Assistance Program (EAP)

A confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic as part of the health plan coverage. The EAP helps participants deal with problems affecting personal and work life, such as:

- conflicts within the family and workplace
- personal and emotional concerns
- alcohol and substance abuse
- financial and legal problems
- elder and child care
- career concerns and other challenges

Other Drug

Any substance, other than alcohol, that may be taken into the body and may impair mental faculties and/or physical performance.

Supervisor

The individual who is responsible for coordinating activities within an employee's workplace and managing an employee's performance.

Workplace

Any university-owned or leased property, or any site where university employees are performing official duties.

4. APPLICABILITY

This policy is applicable to all employees of the university.

5. POLICY

Each of the following acts constitutes a violation of this policy:

- The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other drugs in the workplace.
- Impairment in the workplace from the use of alcohol or other drugs.
- The criminal conviction for a:
 - violation of any criminal drug law, based on conduct occurring either on or off the workplace; or
 - violation of any alcoholic beverage control law or law that governs driving while intoxicated, based on conduct occurring either on or off the workplace
- The employee's failure to report an **arrest** for any offense related to criminal drug laws or alcoholic beverage control laws or laws that govern driving while intoxicated, based on conduct occurring on or off the workplace to his/her supervisor or designee **in writing and within 72 hours** of an arrest.
- The employee's failure to report a **conviction** for any offense related to criminal drug laws or alcoholic beverage control laws or laws that govern driving while intoxicated, based on conduct occurring on or off the workplace to his/her supervisor or designee **in writing and within five calendar days** of a conviction.

An employee's appeal of the conviction does not affect the employee's obligation to report the conviction.

6. PROCEDURES

6.1 Testing Conditions

Employees will be designated for alcohol and/or drug testing under the condition of reasonable suspicion.

Reasonable Suspicion: Employees will be tested whenever the individual's behavior or appearance causes the supervisor to question the employee's ability to perform his/her duties. The elements of the constructive confrontation by a supervisor are to identify and confront the individual, to confirm the behavior/appearance/odor/speech, and to document the incident by completing the [Behavior/Incident Documentation Form](#). If possible, the confrontation should be made in person by the supervisor, with a witness to the event.

A refusal to participate in the test(s), the discovery of an adulterated specimen or the tampering of the sample will be considered commission of a prohibited act and shall be subject to the full range of disciplinary actions pursuant to applicable disciplinary policies, up to and including termination.

The university will conduct mandatory drug and alcohol testing of all university employees who possess commercial driver's licenses and use them in performance of their university jobs. See Policy [1114](#).

6.2 Health Risks

[Sample Listing of Health Impact of Various Controlled Substances](#)

[National Institute on Drug Abuse Easy-to-Read Drug Facts](#)

[Centers for Disease Control and Prevention Effects of Drinking Alcohol and Your Health](#)

6.3 Rehabilitation Programs

University employees with problems related to the use of alcohol or other drugs are encouraged to seek counseling or other treatment.

Supervisors are encouraged to assist employees seeking counseling. They should consult Human Resources and/or the [Employee Assistance Program](#) for managing treatment of behavioral health and substance abuse conditions.

- The Employee Assistance Program covers medically necessary behavioral health services under all insurance plans.
- Eligible services must be pre-authorized.
- Referral from a Primary Care Physician is not necessary.
- Not all programs are licensed, accredited or covered under employees' health coverage.
- Other state agencies offering assistance and referral information are the Virginia Department of Behavioral Health & Developmental Services and the Virginia Department of Health.

Resources that Harrisonburg offers include, but are not limited to:

- [RMH Life Recovery Program](#): The LIFE Recovery Program at RMH Behavioral Health is a comprehensive treatment program focusing on freedom from chemicals for those suffering with alcohol or drug problems. Services offered range from individual therapy to group therapy to intensive group therapy, and even aftercare services.
- [Alcoholics Anonymous in Harrisonburg](#)
- [Al-Anon Virginia](#)
- [Shenandoah Valley Area of Narcotics Anonymous](#)

With the approval of the appropriate vice president or designee, university employees may be granted a leave of absence (leave without pay if no leave balances are available) from work to participate in rehabilitation programs for treatment of alcohol and/or other drug problems. Information regarding an employee's enrollment in an Employee Assistance Program or an alcohol and/or other drug rehabilitation program shall only be disclosed with the employee's permission or when the university determines that disclosure is necessary for the efficient operation of the university.

6.4 Confidentiality of Records

All records and information concerning personnel actions that are related to this policy shall remain confidential and only be disclosed with the employee's permission or when the university determines that disclosure is necessary for the efficient operation of the university.

6.5 Federally Mandated Biennial Review

James Madison University acknowledges its legal obligation to conduct a biennial review of compliance with the Drug-Free Schools and Communities Act and authorized an administrative review to be conducted to determine if the university fulfills the requirements of the aforementioned Federal regulations. The University Health Center, Human Resources, and the Office of Student Accountability and Restorative Practices collaboratively conduct the biennial review of campus programs.

7. RESPONSIBILITIES

7.1 Employee Responsibilities

All employees shall abide by the terms of the university's policy on Alcohol and Other Drugs and applicable disciplinary policies.

Employees who are arrested for violating a criminal drug law, an alcoholic beverage control law or law that governs driving while intoxicated, based on conduct occurring on or off the workplace, must notify their supervisor or a designee, in writing and within 72 hours after such arrest.

Employees who are convicted of violating a criminal drug law, an alcohol beverage control law or law that governs driving while intoxicated, based on conduct occurring on or off the workplace, must notify their supervisor or a designee, in writing and within five calendar days, after such conviction. Appealing the conviction does not affect the requirement to notify the supervisor of the conviction.

7.2 University/Supervisor Responsibilities

7.2.1 The Drug-Free Workplace Act of 1988 requires management to disseminate supplemental information related to federal trafficking penalties and controlled substances.

[DEA-Federal Trafficking Penalties \(marijuana\)](#)

[DEA-Federal Trafficking Penalties \(other than marijuana\)](#)

7.2.2 The university must inform all employees of this policy upon employment. Employees are required to submit a Policy Summary Acknowledgement indicating his/her acknowledgement of the policy. See [Dukes at Work – New Employee Onboard](#).

7.2.3 A copy of the policy shall be available to all employees.

7.2.4 The university is dedicated to assuring fair and equitable application of this policy. Supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner.

7.2.5 University representatives shall be responsible for [training](#) supervisors on: how to recognize behaviors that may indicate impairment from alcohol or drug use; appropriate referral techniques; and available resources for drug and alcohol rehabilitation. See [Compliance Trainings](#).

7.2.6 The university shall inform all employees on an ongoing basis of:

- dangers of alcohol and other drug use or abuse in the workplace;
- available alcohol and other drug counseling;
- available approved rehabilitation and employee assistance programs, and
- penalties that may be imposed upon employees for the commission of prohibited acts.

7.2.7 The university shall inform the federal contracting or granting agency within 10 calendar days after receiving notice that an employee covered under the federal Drug-Free Workplace Act has been convicted of a criminal drug law violation occurring in the workplace.

7.2.8 The supervisor shall, within 30 calendar days of receiving notice of any employee's criminal conviction, or any other violation of this policy, take appropriate disciplinary action against such employee and/or require such employee to participate satisfactorily in an alcohol or other drug rehabilitation program. Satisfactory participation shall be determined by the university after:

- presentation of adequate documentation by the employee (it is within the university's discretion to determine what documentation it will require); and/or
- consultation with the Employee Assistance Program (EAP) or any rehabilitation program (provided that, if consultation is to be with a program that treated the employee, the prior consent of the employee must be obtained).

The university shall require contractors working on university worksites to certify that they will comply with Section 5 of this policy.

7.3 The university must conduct a biennial review of its program with the following objectives: (1) determining the effectiveness of the policy and implementing changes to the Alcohol and Other Drug program if they are needed; and (2) to ensure that sanctions developed are enforced consistently.

All departments, offices and employees that generate, receive or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#)-Records Management.

8. SANCTIONS

Any employee who commits any prohibited act shall be subject to the full range of disciplinary actions pursuant to applicable disciplinary policies, up to and including, termination, e.g., the Standards of Conduct and Performance policy. See JMU Policy [1317](#). The severity of the disciplinary action chosen must be decided on a case-by-case basis depending on the circumstances of each case. Among the mitigating circumstances that may be considered is whether the employee voluntarily admits to and seeks assistance for an alcohol or other drug problem.

Any supervisor who disregards the requirements of this policy, or who is found to have deliberately misused this policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

9. EXCLUSIONS

Affiliates, emeriti and unpaid members of the university community are not covered by this policy but the university reserves the right to revoke associated privileges or access as deemed necessary by the appropriate vice president.

10. INTERPRETATION

The authority to interpret this policy rests with the president and is generally delegated to the director of human resources.

Previous version: May 2014

Approved by the President: March 2012