

DRUG AND ALCOHOL VIOLATIONS

Legal Sanctions

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All students should be aware of the legal sanctions under state, local, and federal law for the unlawful possession or distribution of prescription or illicit drugs and alcohol, as well as the health risks associated with abuse of controlled substances or alcohol. The following is a review of the legal sanctions under local, state, and federal law for the unlawful possession or distribution of illicit drugs and alcohol.

DRUGS

PENNSYLVANIA STATE LAW

1. The Controlled Substance, Drug, Device and Cosmetic Act, 35 Pa. C.S.A. 780-101 et seq., sets up five schedules of controlled substances based on dangerousness and medical uses. It prohibits the manufacture, distribution, sale or acquisition by misrepresentation or forgery of controlled substances except in accordance with the Act as well as the knowing possession of controlled substances unlawfully acquired. Penalties for first-time violators of the Act range from thirty days' imprisonment, \$500 fine, or both for possession or distribution of a small amount of marijuana or hashish, not for sale, to fifteen years or \$250,000 or both for the manufacture or delivery of a Schedule I or II narcotic. A person over eighteen years of age who is convicted for violating The Controlled Substance, Drug, Device and Cosmetic Act shall be sentenced to a minimum of at least one-year total confinement if the delivery or possession with intent to deliver of the controlled substance was to a minor. If the offense is committed within 1,000 feet of the real property on which a university is located, the person shall be sentenced to an additional minimum sentence of at least two years' total confinement.
2. The Pharmacy Act of 1961, 63 Pa. C.S.A. 390-8, makes it unlawful to procure or attempt to procure drugs by fraud, deceit, misrepresentation or subterfuge or by forgery or alteration of a prescription. The first offense is a misdemeanor, with a maximum penalty of one year's imprisonment, a \$5,000 fine, or both.
3. The Vehicle Code, 75 Pa. C.S.A. 3101 et seq., which was amended effective July 1, 1977, prohibits driving under the influence of alcohol or a controlled substance, or both, if the driver thereby is rendered incapable of safe driving. A police officer is empowered to arrest without a warrant any person whom he or she has probable cause to believe has committed a violation, even though the officer may not have been present when the violation was committed. A person so arrested is deemed to have consented to a test of breath or blood for the purpose of determining alcoholic content, and if a violation is found it carries the penalties of a misdemeanor of the second degree, which includes imprisonment for a maximum of thirty days.

GEORGIA STATE LAW

"Controlled Substances": This broad category of illegal substance is defined in Drug schedules I-V, Official Code of Georgia Annotated (O.C.G.A.), Sections 16-13-25 to 16-13-29.1, including a long list of chemical compounds, opiates, hallucinogens, derivatives, isomers and other materials. The State Board of Pharmacy may add new materials to the list as required.

"Dangerous Drugs": This is an even broader category of illegal substance and is defined in O.C.G.A. 16-13-71, describing hundreds of chemicals and other compounds. The Georgia General Assembly may add drugs to the list as required.

A SUMMARY OF THE CRIMINAL PENALTIES IS LISTED BELOW.

Criminal Punishment

"First offender" treatment for mere possession of minor amounts of a controlled substance or dangerous drug. A person never before convicted of possession of a small amount of the above material may, at the judge's sole discretion, be afforded firstoffender treatment, resulting in no entry of a plea of guilty and no record of any conviction, if the defendant successfully completes a court-monitored comprehensive rehabilitative program (O.C.G.A. 16-13-2(a)).

1. *Possession of one ounce or less of marijuana.* Imprisonment for 12 months or less and/or a fine not to exceed \$1,000, or "public works" (community services) not to exceed 12 months (O.C.G.A. 16-13-2(b)).
2. *Possession, manufacture or distribution of controlled substances.* This is punishable by confinement of up to 30 years in prison and fines of up to \$1 million, depending on the schedule sequence of the controlled substance involved, as well as the amount (see O.C.G.A. Section 16-13-30 and Section 16-13-31). The manufacture, distribution or possession with intent to distribute any controlled substance or marijuana within 1,000 feet of an elementary or secondary school, park, playground, recreation center, housing project or drug-free commercial zone can result in up to 40 years in prison with a fine of up to \$40,000 (see O.C.G.A. Section 16-13-32.4, 16-13-32.5 and 16-13-32.6). A detailed chart outlining the state penalties for crimes involving various controlled substances is available in the Student Affairs office.

FEDERAL LAWS

1. The Federal drug laws, The Controlled Substances Act, 21 U.S.C. 801 et seq., are similar to the Pennsylvania Controlled Substance, Drug, Device, and Cosmetic Act, but contain, for the most part, more severe penalties. Schedules of controlled substance are established, and it is made unlawful knowingly or intentionally to manufacture, distribute, dispense, or possess with intent to distribute or dispense a controlled substance. If the quantity of controlled substance is large (e.g., 1,000 kg of a mixture or substance containing marijuana), the maximum penalties are life imprisonment, a \$4,000,000 fine, or both. Lesser quantities of controlled substance (e.g., 100 kg of a mixture or substance containing marijuana) result in maximum penalties of life imprisonment, a \$2,000,000 fine, or both. The distribution of small amounts of marijuana for no remuneration or simple possession of a controlled substance carries a maximum of one year's imprisonment, a \$5,000 fine, or both, with the penalties for the second offense doubling. Probation without conviction is possible for first offenders. Distribution to persons under the age of twenty-one by persons eighteen or older carries double or triple penalties. Double penalties also apply to the distribution or manufacture of a controlled

substance in or on or within 1,000 feet of the property of a school or college.

2. Students who have been convicted under state or federal law involving the possession or sale of a controlled substance are ineligible for federal student aid for specific periods (ranging from one year to an indefinite period depending on the nature of the offense and whether the student is a repeat offender).

Alcohol

1. The Pennsylvania Liquor Code, 47 Pa., C.S.A., 1-101 et seq., controls the possession and sale of alcoholic beverages within the Commonwealth. The Code as well as portions of the Pennsylvania Statutes pertaining to crimes and offenses involving minors, 18 Pa., C.S.A. 6307 et seq., provide the following:
 2. It is a summary offense for a person under the age of twenty-one to attempt to purchase, consume, possess or knowingly and intentionally transport any liquor or malt or brewed beverages. Penalty for a first offense is suspension of driving privileges for 90 days, a fine up to \$300 and imprisonment for up to 90 days; for a second offense, suspension of driving privileges for one year, a fine up to \$500, and imprisonment for up to one year; for subsequent offense, suspension of driving privileges for two years, a fine up to \$500 and imprisonment for up to one year. Multiple sentences involving suspension of driving privileges must be served consecutively.
 3. It is a crime intentionally and knowingly to sell or intentionally and knowingly to furnish or to purchase with the intent to sell or furnish, any liquor or malt or brewed beverages to any minor (under the age of twenty-one). "Furnish" means to supply, give or provide to, or allow a minor to possess on premises or property owned or controlled by the person charged. Penalty for a first violation is \$1,000; \$2,500 for each subsequent violation; imprisonment for up to one year for any violation.
 4. It is a crime for any person under twenty-one years of age to possess an identification card falsely identifying that person as being twenty-one years of age or older, or to obtain or attempt to obtain liquor or malt or brewed beverages by using a false identification card. Penalties are stated in (2) above.
 5. It is a crime intentionally, knowingly or recklessly to manufacture, make, alter, sell or attempt to sell an identification card falsely representing the identity, birth date, or age of another. Minimum fine is \$1,000 for first violation; \$2,500 for subsequent violations; imprisonment for up to one year for any violation.
 6. It is a crime to misrepresent one's age knowingly and falsely to obtain liquor or malt or brewed beverages. Penalties are as stated in (1) above.
 7. It is a crime knowingly, willfully and falsely to represent that another is of legal age to obtain liquor or malt or brewed beverages. Penalty is a minimum fine of \$300 and imprisonment for up to one year.
 8. It is a crime to hire, request or induce any minor to purchase liquor or malt or beverages. Penalty is a minimum fine of \$300 and imprisonment for up to one year.
 9. Sales without a license or purchases from an unlicensed source of liquor or malt or brewed beverages are prohibited.
 10. It is unlawful to possess or transport liquor or alcohol within the Commonwealth unless it has been purchased from a State Store or in accordance with Liquor Control Board regulations. The University will cooperate with the appropriate law enforcement authorities for violations

of any of the above-mentioned laws by an employee in the workplace or student.

11. The use in any advertisement of alcoholic beverages of any subject matter, language or slogan directed to minors to promote consumption of alcoholic beverages is prohibited.

12. No advertisement of alcoholic beverages shall be permitted, either directly or indirectly, in any booklet, program, book, yearbook, magazine, newspaper, periodical, brochure, circular, or other similar publication, published by, for, or on behalf of any educational institution.

FINANCIAL AID ELIGIBILITY AND DRUG CONVICTIONS

Substance Abuse Question on the Free Application for Federal Student Aid (FAFSA)

The FAFSA form asks if the student has ever been convicted of a drug-related offense. Failure to answer this question will automatically disqualify the student from receiving federal aid. Falsely answering this question, if discovered, could result in fines up to \$20,000, imprisonment, or both.

Under the Higher Education Act, a student may become ineligible for federal student aid upon conviction of any offense involving the possession or sale of illegal drugs while receiving Title IV federal financial aid. Federal aid includes Federal Direct Loans, Federal Direct Graduate PLUS Loans, and Federal Work Study.

FEDERAL FINANCIAL AID PENALTIES FOR DRUG CONVICTIONS

Possession of Illegal Drugs

First Offense: 1 year ineligibility from the date of conviction

Second Offense: 2 years' ineligibility from the date of conviction

Third and Subsequent Offenses: Indefinite ineligibility from the date of conviction

Sale of Illegal Drugs

First Offense: 2 years' ineligibility from the date of conviction

Second and Subsequent Offenses: Indefinite ineligibility from the date of conviction

CONVICTIONS DURING ENROLLMENT

According to the United States Department of Education, if a student is convicted of a drug offense after receiving federal aid, he or she must notify the Financial Aid Department immediately and that student will be ineligible for further aid and required to pay back all aid received after the conviction.

REGAINING FINANCIAL AID ELIGIBILITY

A student can regain eligibility for federal student aid funds by successfully completing a drug rehabilitation program. To be sufficient to reinstate financial aid eligibility, the program must include at least 2 unannounced drug tests and be recognized as a federal, state, or local government agency program. A student will regain eligibility on the date of successfully completing the program.