



Category:  
HR / Labor Relations  
Student Affairs

Responsible Office:  
[University Life](#)

**Other Requirement Title:**

Drug-Free Schools and Communities Act/Drug-Free Work Place Act  
Compliance

Document Number:  
3400

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This procedure item applies to:  
Community Colleges  
State-Operated Campuses

**Table of Contents**

- [Summary](#)
- [Requirement](#)
- [Related Procedures](#)
- [Forms](#)
- [Definitions](#)
- [Other Related Information](#)
- [Appendicies](#)

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**Summary**

It is the policy of the State University of New York (University) to comply with the Drug-Free Schools and Communities (Campuses) Act of 1989 and Federal Anti-Drug Abuse Act of 1988. This document outlines the steps campuses must take to comply with these regulations.

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**Requirement**

**Institutional Compliance with the Federal Drug-Free Schools and Communities Act of 1989**

Pursuant to [34 CFR Part 86](#), University campuses must:

- A. adopt and implement a drug prevention program as described in (C) of this policy to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by all students and employees on school premises or as part of any of its activities;
- B. provide a written certification that it has adopted and implemented the drug prevention program described in (C) of this policy;
- C. annually distribute in writing to each employee, and to each student who is taking one or more classes for any type of academic credit except for continuing education units, regardless of the length of the student's program of study:
  - 1. 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 its property or as part of any of its activities;
  - 2. a description of the applicable legal sanctions under local, state (see Appendix A – D), or federal

law (see [Appendix A of 34 CFR Part 86](#)) for the unlawful possession or distribution of illicit drugs and alcohol;

3. a description of the health risks associated with the use of illicit drugs and the abuse of alcohol (for federal requirements of this clause see [Appendix B of 34 CFR Part 86](#));
4. a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and
5. a clear statement that the campus will impose disciplinary 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 required by paragraph (C)(1) of this policy. For the purpose of this section, a disciplinary sanction may include the completion of an appropriate rehabilitation program.

D. conduct a biennial review by October 1 of even number years of its program to:

1. ascertain its effectiveness and implement changes to the program if they are needed; and
2. ensure that disciplinary sanctions described in paragraph (C) (5) of this policy are consistently enforced (the format of this review is left to the discretion of the individual campus);

E. retain records pertaining to its programs for at least three years following the fiscal year in which they are produced. A copy of these records shall be made available, upon request, to the U.S. Secretary of the Department of Education, and the public. Such records shall include as a minimum:

1. the items described in paragraph (C) of this policy;
2. any other records reasonably related to the campus's compliance with the drug prevention program certification;
3. if any litigation, claim, negotiation, audit, review, or other action involving the records has been started before expiration of the three-year period, the campus shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later.
4. the text of the information distributed annually in compliance with the Drug Free School and Communities Act;
5. a record of the scope and method of the annual dissemination of this information;
6. personnel disciplinary records pertaining to violations of the drug and alcohol policy;
7. student disciplinary records pertaining to violation of the drug and alcohol policy, consistent with the Family Educational Rights and Privacy Act;
8. a record of the results of the biennial review of the program; and
9. a [certification](#) of the biennial review.

This regulation does not regard notification of the availability of the materials as meeting compliance. In addition, a campus that uses the U.S. mail to provide the materials must use their standard procedures for following up on any mail returned because of failed delivery.

(See [Complying with the Drug-Free Schools and Campuses Regulations](#) for help in interpreting these requirements.)

**Institutional Compliance with the Federal Anti-Drug Abuse Act of 1988**

Pursuant to [34 CFR Part 84](#), campuses must submit a certification to the U.S. Secretary of Education that they will provide a drug-free workplace as a precondition for receiving federal funds. In order to provide certification to the Secretary, University campuses must:

- A. make a good faith effort, on a continuing basis, to maintain a drug-free workplace by;
  - 1. publishing a drug-free workplace statement for its employees, who will be engaged in the performance of any federal award, that:
    - a. tells employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace;
    - b. specifies the actions that will be taken against employees for violating that prohibition; and
    - c. lets each employee know that, as a condition of employment under any award, he or she:
      - i. will abide by the terms of the statement; and
      - ii. must notify the campus in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction; and
  - 2. establishing a drug-free awareness program for its employees, who will be engaged in the performance of any federal award, about:
    - a. the dangers of drug abuse in the workplace;
    - b. the campus policy of maintaining a drug-free workplace;
    - c. any available drug counseling, rehabilitation, and employee assistance programs; and
    - d. the penalties that the campus may impose upon them for drug abuse violations occurring in the workplace; and
  - 3. publishing the statement and establishing the program by the time given in the following table:

| If ...  | then you...  |
|---|--|
| (a) The performance period of the award is less than 30 days... | must have the policy statement and program in place as soon as possible, but before the date on which performance is expected to be completed. |

|   |   |
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| <p>(b) The performance period of the award is 30 days or more.</p>  | <p>must have the policy statement and program in place within 30 days after award.</p>  |
| <p>(c) You believe there are extraordinary circumstances that will require more than 30 days for you to publish the policy statement and establish the awareness program.</p> | <p>may ask the Department of Education awarding official to give you more time to do so (the amount of additional time, if any, to be given is at the discretion of the awarding official).</p> |

- 4. and taking the following actions concerning employees who are convicted of violating drug statutes in the workplace;
    - a. notifying federal agencies if an employee who is engaged in the performance of an award informs the campus about a conviction or the campus otherwise learns of the conviction. The campus notification to the federal agencies must:
      - i. be in writing;
      - ii. include the employee's position title;
      - iii. include the identification number(s) of each affected award;
      - iv. be sent within ten calendar days after you learn of the conviction; and
      - v. be sent to every federal agency on whose award the convicted employee was working (it must be sent to every awarding official or his or her official designee, unless the federal agency has specified a central point for the receipt of the notices);
    - b. within 30 calendar days of learning about an employee's conviction, the campus must either:
      - i. take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; or
      - ii. require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- B. must identify all known workplaces under federal awards;
1. to the Department of Education official that is making the award either: a. at the time of application; or b. upon award or in documents that the campus keeps on file during the performance of the award, in which case the campus must make the information available for inspection upon request by Department of Education officials or their designated representatives;
  2. Workplace identification for an award must include the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Categorical descriptions may be used(e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

3. If a campus identified workplaces to the Department of Education awarding official at the time of application or award, and any workplace that was identified changes during the performance of the award, the campus must inform the Department of Education awarding official.

For all federal grants and contracts for state-operated campuses administered through the Research Foundation, the Foundation will provide the programs and the compliance certifications. For community colleges, the president of each campus must provide the compliance certification.

Institutions receiving Pell Grants, College-Work Study and Supplemental Educational Opportunity Grants must also comply with the certification requirements. The president of each campus will provide certification for the institution regarding these items.

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## Definitions

There are no special definitions relevant to this requirement.

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## Related Procedures

[SUNY Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases](#), from [SUNY Policies on Sexual Violence Prevention and Response](#).

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## Forms

There are no forms relevant to this requirement.

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## Other Related Information

[20 U.S.C. §1011h](#) (Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption)

[20 U.S.C. §1091](#) (Student Eligibility)

Also available on the [Cornell Legal Information Institute website](#).

[Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention](#), Education Development Center. [Since the passage of this SUNY procedure, this project has become inactive, but is presented on the website for archival purposes.]

[Title 34 - Education, Part 86 - Drug Free Schools and Campuses Regulations Drug and Alcohol Abuse Prevention](#), available from the Federal Student Aid Government website, <http://www.ifap.ed.gov/ifap/>. Also available as [Appendix 1, page 32-43](#) in [Complying With the Drug-Free Schools and Campuses Regulations \[EDGAR Part 86\]: A Guide for University and College Administrators](#), U.S. Department of Education, Office of Safe and Drug-Free Schools, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention.

[Description of the Higher Education Amendments of 1998](#), from the [United States Department of Education website](#), in the section on Higher Education Laws and Guidance.

[Complying With the Drug-Free Schools and Campuses Regulations \[EDGAR Part 86\]: A Guide for University and College Administrators](#), U.S. Department of Education, Office of Safe and Drug-Free Schools, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, 2006. Also available permanently [here](#).

[Part 86 Compliance Checklist](#), Appendix 2, page 42 in [Complying With the Drug-Free Schools and Campuses](#)

[Regulations \[EDGAR Part 86\]: A Guide for University and College Administrators](#), U.S. Department of Education, Office of Safe and Drug-Free Schools, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention.

[Supplemental Checklist for Exceeding Compliance with the Drug-Free Schools and Campuses Regulations \(EDGAR Part 86\)](#), U.S. Department of Education Higher Education Center, Appendix 6, page 50-56 in [Complying With the Drug-Free Schools and Campuses Regulations \[EDGAR Part 86\]: A Guide for University and College Administrators](#), U.S. Department of Education, Office of Safe and Drug-Free Schools, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention.

[Federal Trafficking Penalties as of 2006](#), Appendix 3 in [Complying With the Drug-Free Schools and Campuses Regulations \[EDGAR Part 86\]: A Guide for University and College Administrators](#), U.S. Department of Education, Office of Safe and Drug-Free Schools, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention.

[SUNY Guidance Document. Complying with the Drug-Free Schools and Campuses Regulations \(DFSCR\), prepared by the SUNY Office of General Counsel. H.S. Albert Jung, Intern, July 22, 2015.](#)

The guidance contains information on complying with the DFSCR, including how to Prepare the Annual Notice, how to distribute the Annual Notice, how to conduct the Biennial Review, and recordkeeping considerations to be able to demonstrate compliance with the law.

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## Appendicies

[Appendix A](#) - NYS Alcoholic Beverage Control Law and Vehicle and Traffic Law

[Appendix B](#) - NYS Penal Law: Controlled Substances Offenses, Offenses Involving Marihuana and Criminal Diversion of Prescription Medications and Prescriptions