



ALCOHOL AND DRUG USE IN THE WORKPLACE POLICY

POLICY SUMMARY

The unlawful use, possession, manufacture, dispensation, or distribution of controlled substances or alcohol in all college campus and work locations, or in the course of performing duties of employment with the College, is prohibited. This policy applies to all SUNY Niagara employees and students.

POLICY

In compliance with the Federal Drug-Free Workplace Act of 1988, employees of SUNY Niagara ("SUNY NIAGARA") should be aware of and must adhere to the policy stated below:

- The unlawful use, possession, manufacture, dispensation, purchase, or distribution of controlled substances or alcohol in all SUNY NIAGARA campus and work locations, or in the course of performing duties of employment with the College, all SUNY NIAGARA property, campus housing, offices (including college-owned and leased buildings, campus housing, College Association, and parking lots) and at all campus events is prohibited. The term "controlled substance" means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21USC8112), and as further defined in regulation at 21 CFR 1308.11–1308.15.
- Specifically, using, possessing, and distributing cannabis/marijuana, a controlled substance, in any form remains a crime under federal law and is thus prohibited on all SUNY NIAGARA property in public or campus housing or offices (including college-owned and leased buildings, housing, and parking lots) and at all campus events or while conducting campus business, except for approved academic activities.
 - In addition to traditional cannabis buds that are smoked using rolling papers, bowls, bongs, vaping pens, or other paraphernalia, cannabis/marijuana may also take the form of edibles, including candies, cookies, and brownies. None of these forms are permitted within SUNY NIAGARA- and all other entities on SUNY Niagara property. Smoking or vaping medical marijuana is prohibited which includes all entities on SUNY Niagara campus and operated property according to NY Department of Health Regulations. While CBD that is derived from hemp and contains no more than 0.3% THC is legal under federal law, most CBD products are not regulated by the Food and Drug Administration and may contain more THC than identified on the label. As such, CBD is prohibited on all SUNY NIAGARA property in public or campus housing or offices (including college-owned and leased buildings, housing, and parking lots) and at all campus events or while conducting campus business, except for approved academic research and classes. Reasonable accommodations will be made as

required by the New York State Human Rights Law and the Americans with Disabilities Act.

- For the avoidance of doubt, medical marijuana remains prohibited in SUNY NIAGARA-owned or operated accommodations which include campus housing.
- Students and employees should be aware there are significant psychological and physiological health risks associated with the use of controlled substances and alcohol. Physical addiction, loss of control, and withdrawal syndrome as well as serious damage to vital organs of the body can result from drug and alcohol use and abuse.
- No employee or student will report for work or school impaired by any controlled substance, alcohol, or lawful prescription or over-the-counter medication. “Impaired” means under the influence of a substance such that the student’s or employee’s motor senses (i.e., sight, hearing, balance, reaction, or reflex) or judgment either are or may be reasonably presumed to materially impact the employee’s ability to perform job functions. An employee or student should contact the Assistant Vice President of Human Resources/Title IX Coordinator or the Assistant Vice President of Student Services/Title IX Investigator in advance to review any circumstances where the employee or student believes or reasonably should be expected to know that the performance of job functions or the academic expectations may be affected by use of lawful prescription or over-the-counter medication.
- Employees and Students will be subject to criminal, civil, and disciplinary penalties consistent with applicable laws, rules, regulations, and collective bargaining agreements (if applicable) if they use, manufacture, distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace while performing in a work-related capacity or as a student under circumstances which have a nexus to the employee’s employment or as a student with the College. An employee or student may not possess and use a controlled substance that is properly prescribed for him/her by a physician, subject to the conditions or use set forth above on SUNY Niagara property or in campus housing.
- As required by the Federal Drug-Free Workplace Act of 1988, any employee at SUNY NIAGARA convicted of a criminal drug statute violation occurring at the workplace must notify his/her supervisor of the conviction within five (5) days after the conviction. SUNY NIAGARA must inform contracting or granting agencies of such convictions within ten (10) days after receiving notification from the employee or otherwise receiving notice of a conviction.
- SUNY NIAGARA will impose appropriate disciplinary sanctions on employees or students found to violate standards of conduct as follows:
 - SUNY NIAGARA will take all steps necessary to ensure the proper conduct of its activities. This may include the use of counseling and discipline procedures. If a decision is reached to allow the affected employee or students to continue employment or continue as a student at SUNY NIAGARA, the employee or student may be required to participate in and satisfactorily complete an approved drug abuse assistance or rehabilitation program.
 - Where an appointing authority or designee has a reasonable suspicion that an employee is not able to perform his/her duties as a result of disability which may be caused by alcohol or a controlled substance, the appointing authority may

proceed under the provision of Section 72 of the Civil Service Law and require that the employee undergo a medical examination to ascertain the cause of the disability. Where testing for alcohol or a controlled substance occurs, appropriate medical procedures and tests should be utilized to ensure accurate and proper results. Confidentiality of the testing process and results is an important aspect of this procedure for any affected State employee. Such medical examinations may be required under the safeguards of Section 72 of the Civil Service Law for employees who are permanently appointed competitive employees subject to due process before termination. Other State employees who are not entitled to any due process protections before being terminated or placed on involuntary examination may also be required to undergo such a medical examination, if appropriate under the circumstances.

- Once a determination is made that any employee or student at SUNY NIAGARA violates this Policy, the appointing authority may determine that the affected employee or student should be disciplined, subject to administrative action, or under the student code of conduct and/or whether a referral should be made to appropriate law enforcement authorities. Disciplinary action may be taken pursuant to the procedures contained in the collective bargaining agreements, student code of conduct handbook, other college policies, or the law, as appropriate and required.
- The appointing authority may determine that the employee or student could benefit from the Employee Assistance Program or counseling services for students. In such as case, a referral will be made. EAP is a free, voluntary, information and referral service available to SUNY NIAGARA employees and family members. Should the employee have a substance abuse problem, EAP will provide the employee with resources in the community for treatment services, and may assist the employee in making the contact. For more information go to www.HigherEdEAP.com or by calling 1-800-252-4555. Students should contact the Wellness Center at 716-614-6275.

- **State Sanctions**

- The State Penal Code has numerous penalties for the possession and sale of controlled substances; stimulants, LSD, hallucinogenic substances, and marijuana. Possession and sale of controlled substances sanctions range from misdemeanor to felony, with penalties ranging from one year to life. Marijuana possession and sale sanctions range from violations to felonies, with penalties from fines up to \$1000 and up to fifteen years in prison.

- **Federal Sanctions**

- Federal law has numerous penalties for the illegal possession of controlled substances, possession of crack cocaine, and trafficking in methamphetamine, heroin, cocaine, cocaine base, PCP, LSD, fentanyl, and fentanyl analog.
- Possession sentences range from up to one year imprisonment and a \$1,000 fine to 20 years imprisonment and fines up to \$250,000. Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance can be a sanction for convictions. Sanctions can also include denial of federal benefits, such as student loans, grants, contracts, public housing

tenancy, eligibility to receive or purchase firearms, and professional and commercial licenses. Federal trafficking sanctions can range from year one-year imprisonment and a \$100 fine to life in prison and a fine of \$8 million dollars.

The following SUNY NIAGARA resources are available for assisting those with possible problems of chemical abuse:

- Wellness Center, Room C122, or by calling (716) 614-6275
- EAP: www.HigherEdEAP.com or call 1-800-252-4555.
- YWCA of the Niagara Frontier, 32 Cottage Street, Lockport, NY 14094, or by calling 716-433-6714

For further information on the Alcohol & Drug Use in the Workplace Policy, please visit:

- https://www.suny.edu/sunypp/documents.cfm?doc_id=440 (SUNY guidelines)
- <https://www.ecfr.gov/current/title-34/subtitle-A/part-> (Federal Guidelines)

Policy Information Contact Information:

SUNY Niagara -Human Resources Department

A261 Notar Administration Building, 3111 Saunders Settlement Rd, Sanborn, NY 14132

716-614-5950 phone.

SUNY Niagara -Student Services Department, A265 Notar Administration Building, 3111 Saunders Settlement Rd, Sanborn, NY 14132 716-614-6240.