

University of Montana Western

**Federal Drug-Free Schools and Campuses  
Regulations Annual Policy Notification**

September 2024

## Contents

<b>Federal Drug-Free Schools and Campuses Regulations [EDGAR Part 86]</b> .....	6
Policy Dissemination.....	6
University Commitment.....	6
Voluntary Assistance Encouraged .....	6
No Excuse for Violations .....	6
Support Resources Available .....	6
1. Montana Western Student Counseling.....	7
2. Employee Assistance Programs:.....	7
3. Educational and Awareness Programs:.....	7
4. VectorSolutions.....	7
5. P.A.T.H. (Peers Advocating Towards Health).....	7
Community Resources Available.....	7
<b>Part 1 Campus Policies, Procedures and Sanctions</b> .....	8
Campus Policy 100.5: Campus Alcohol .....	9
Purpose of this Policy .....	9
Definitions.....	9
Policy .....	9
Exceptions.....	9
Residence Hall Alcohol Policy .....	10
On-Campus Events .....	10
Off-Campus Events.....	11
Alcohol Risk Management Guidelines and Procedures.....	11
Advertising and Promotion Involving Alcohol.....	12
Campus Policy 100.6: Drug-Free Campus .....	13
Purpose of this Policy .....	13
Policy .....	13
Procedures.....	13
Campus Policy 705.3: Drug-Free Workplace.....	15
Purpose of this Policy .....	15
Policy .....	15

Procedures.....	15
Student Employees.....	15
Student General Conduct, Procedures and Sanctions – Alcohol and Other Drugs .....	17
Student Code of Conduct: Article VI – Proscribed General Conduct .....	17
General Misconduct .....	17
1. Alcoholic Beverages .....	17
2. Smoking & Tobacco .....	17
3. Medical Marijuana: .....	17
4. Controlled Substances.....	17
Procedures for General Misconduct.....	18
Overview.....	18
Procedures.....	18
Student Response to Findings Outcome .....	19
Student Code of Conduct: Article VII – Sanctions Imposed by the University for General Misconduct...20	
1. General Behavior Sanctions.....	20
(i) Disciplinary Warning.....	20
(ii) Disciplinary Probation .....	20
(iii) Suspension .....	20
(iv) Expulsion .....	20
(v) Restitution .....	20
(vi) Withholding or Revocation of a Degree .....	20
(viii) Other Sanctions .....	20
2. Mitigating Factors.....	20
3. Readmission.....	21
Alcohol Sanctions for Residents of Residence Halls and/or Family Housing .....	21
1. 1st Offense .....	21
2. 2nd Offense.....	21
3. 3rd Offense.....	21
4. 4th Offense .....	21
Faculty Authority .....	21
University Policies of Special Note for Students.....	22
Alcohol Policy Summary .....	22

Definitions.....	22
Tobacco Free Campus Policy .....	22
Drug-Free Schools and Communities Act .....	22
<b>Bulldog Athletics Standards of Conduct Regarding Alcohol and Other Drugs .....</b>	<b>24</b>
Alcohol.....	24
Other Drugs.....	24
Disciplinary Process and Sanctions .....	24
1.    Warning.....	24
2.    Probation.....	24
3.    Community Service .....	25
4.    Restitution .....	25
5.    Temporary Suspension.....	25
6.    Suspension .....	25
7.    Expulsion .....	25
Violations of Team Rules .....	25
Violation of Rules or Policies other than Team Rules.....	25
Violation of Criminal Law.....	25
Suspension Guidelines .....	25
Termination of scholarship benefits.....	26
Multi-Sport Athletes .....	26
Referral to Counseling .....	26
Drug Testing .....	26
<b>Part 2 Montana Laws and Sanctions .....</b>	<b>28</b>
Montana Sanctions for Possession or Consumption of Tobacco Products by Persons under the Age of 18.....	29
45-5-637. Possession or consumption of tobacco products, alternative nicotine products, or vapor products by person under 18 years of age prohibited – unlawful attempt to purchase - penalties .....	29
Montana Sanctions for Possession or Consumption of Alcohol by Person under the Age of 21...30	
Possession of Intoxicating Substances by Persons Under 21.....	30
Penalties for Persons Under 18 Years of Age.....	30
Penalties for Persons 18 Years of Age or Older .....	31
Attempt to Purchase Intoxicating Substance .....	32
Transfer to Youth Court.....	32

Interference with a Sentence or Court Order: .....	32
Chemical Dependency Assessment and Treatment .....	32
Requirements for Substance Abuse Information and Alcohol Treatment Programs: .....	33
Protection for Reporting Crimes .....	33
Exceptions .....	34
<b>Montana Sanctions for Driving Under the Influence of Alcohol and Other Drugs (DUI) .....</b>	<b>35</b>
MCA-61-8-1001. Definitions .....	35
MCA-61-8-1002. Driving under the influence .....	36
MCA-61-8-1007. Penalty for Driving Under Influence – First through Third Offences .....	37
61-8-1009. Driving under influence -- assessment, education, and treatment required.....	41
<b>Montana Sanctions - Criminal Possession and Distribution of Dangerous Drugs .....</b>	<b>44</b>
MCA-45-9-101. Criminal distribution of dangerous drugs .....	44
MCA-45-9-102. Criminal possession of dangerous drugs.....	45
45-9-103. Criminal possession with intent to distribute .....	45
<b>Part 3 Federal Laws and Sanctions .....</b>	<b>46</b>
<b>Federal Drug Laws.....</b>	<b>47</b>
Denial of Federal Aid (20 USC 1091) .....	47
Rehabilitation .....	47
Forfeiture of Personal Property and Real Estate (21 USC 853).....	47
Federal Drug Trafficking Penalties (21 USC 841) .....	47
Federal Drug Offenses and Penalties (21 USC 841).....	48
Federal Drug Simple Possession Penalties (21 USC 844) .....	49
First Conviction .....	49
Second Conviction .....	49
Subsequent Convictions.....	49
Health Risks of Commonly Abused Substances.....	50
<b>Part 4 Education and Prevention.....</b>	<b>54</b>
Education and Prevention .....	55

# Federal Drug-Free Schools and Campuses Regulations

## [EDGAR Part 86]

### **Policy Dissemination**

As mandated by regulations, the University of Montana Western (Montana Western) is obligated to disseminate the following policy and information to all students, staff, and faculty annually. This process is formally executed through email distribution to all faculty, staff, and students, as well as by posting annual notifications online at the [University Website](#). Should you have any questions regarding this policy or seek information about alcohol and other drug programs, interventions, or policies, please contact Nicole Hazelbaker, Dean of Students, at [nicole.hazelbaker@umwestern.edu](mailto:nicole.hazelbaker@umwestern.edu) or (406) 683-7388.

### **University Commitment**

The University of Montana Western is committed to fostering an environment conducive to learning and scholarship. The possession or use of illegal drugs or the abuse of legally possessed substances significantly impacts both the University environment and the individual potential of our students, staff and faculty. Montana Western adheres to state and federal laws while rigorously enforcing university policies related to the distribution, possession, or use of illegal drugs or controlled substances.

### **Voluntary Assistance Encouraged**

The University of Montana Western strongly encourages students, faculty, and staff to voluntarily seek assistance for dependency or abuse issues before such behavior leads to legal consequences and/or disciplinary actions that may result in their separation from the institution. The University recognizes that behavioral health problems affecting work or student performance can often be corrected through treatment or counseling and we wholeheartedly support these measures.

### **No Excuse for Violations**

The use of, or addiction to, alcohol, marijuana, or controlled substances will not serve as an excuse for violations of the Student Conduct Code or staff/faculty expectations. Such behavior will not be considered a mitigating factor when determining appropriate disciplinary sanctions for violations.

### **Support Resources Available**

If you or someone you know is dealing with alcohol and/or drug dependency, there are various support options readily accessible both on campus and within the community for faculty, staff, and students.

1. **Employee Assistance Programs:** For all Montana University System (MUS) employees and their household members, various [employee assistance programs \(EAP\)](#) and [work-life services](#) are accessible through employee health insurance programs. Access these programs by calling (406) 683-7010. Rest assured that providers through these services will maintain strict confidentiality and will not report individuals seeking help for personal dependency to institutional or state authorities.
2. **Educational and Awareness Programs:** Montana Western [Student Affairs](#), including [Student Wellness](#) and [Student Counseling Services](#), offer educational and awareness programming, as well as information and assistance regarding drug and alcohol use. These resources are available to faculty, staff, and students.
3. **VectorSolutions:** Faculty, staff, and students have access to [VectorSolutions](#), which provides comprehensive training on alcohol and drug misuse, among other topics. Find more information at their [website](#).
4. **P.A.T.H. (Peers Advocating Towards Health):** The University of Montana Western's peer education group, [PATH](#), is dedicated to actively promoting the health and well-being of students. PATH offers education on alcohol and drug risk management, tobacco prevention, and more.

### **Community Resources Available**

For drug and alcohol treatment services in the Dillon community, confidential chemical dependency assessments, outpatient counseling, and patient placement services are available at Barrett Hospital and Healthcare (406) 683-1188. Information about additional behavioral health outpatient services in Dillon can be obtained confidentially by faculty, staff, and students from Student Counseling Services, UMW Human Resources, or through this link: [Community Behavioral Health Services](#).

# **Part 1:**

## **Campus Policies, Procedures, and Sanctions**



# Campus Policy 100.5: Campus Alcohol

## Purpose of this Policy

The purpose of this policy is to provide regulations governing the use and possession of alcoholic beverages on university owned or controlled property, for university sponsored events, and for events by university recognized student clubs. The University aims to comply with applicable laws regarding the sale, possession, and consumption of alcoholic beverages while promoting responsible attitudes toward alcohol among members of the University community, including students, faculty, staff, and visitors.

## Definitions

University clubs, organizations, and campus events encompass a wide range of activities, including but not limited to sports groups, academic honoraria, athletic teams, service organizations, sponsored parties, tailgate parties, dances, picnics, banquets, field trips, sponsored recreational events, and other social functions. An "alcoholic beverage" refers to any beverage subject to the "Montana Alcoholic Beverages Code."

## Policy

The consumption of alcoholic beverages on property belonging to the Montana University System is prohibited, except as expressly permitted ([Board of Regents Policy 503.1](#)).

Specifically, the use or possession of alcoholic beverages is prohibited in the following locations:

1. University of Montana Western buildings, grounds, and athletic fields.
2. At both on and off campus university sponsored events.
3. At both on and off campus university recognized student club events, except in limited approved circumstances.

Except for the limited circumstances listed below, no event involving the service of alcoholic beverages may take place without the prior written approval of the Chancellor or their designee. Alcoholic beverages may be limited to beer and wine.

## Exceptions

Consumption of alcoholic beverages at University recognized events is allowed with advance written approval by the Chancellor or their designee, provided certain stipulations are met. Detailed guidelines, procedures, and [Alcohol Registration Forms](#) are available from the Conference & Event Services Office (refer to [UMW Policy 600.3](#)).

Alcoholic beverages may be consumed in the privacy of a family housing apartment, the Chancellor's residence, and university rental houses, in accordance with local, state, and federal laws and existing university student conduct regulations.

## **Residence Hall Alcohol Policy**

The University of Montana Western follows all state and federal statutes. According to state law, students under the age of 21 cannot consume or possess alcohol. When both residents of a room are under the age of 21, neither they nor their guests/visitors may possess or consume alcohol. This includes shot glasses, alcohol decorations (trophy bottles), empty alcohol containers, and the like.

For rooms in which one roommate is 21 or older, while the other roommate is not of legal drinking age, the resident of legal drinking age may not consume alcohol in the room. Rooms where all roommates are of legal drinking age may consume alcohol inside their room and must keep their behavior from being disruptive. No guests under the age of 21 may be present in the room while the of-age roommate/guests are consuming alcoholic beverages.

Alcohol is not allowed in any public areas of the building or in rooms occupied by underage residents. Most alcohol-related situations come to attention because of disruptive behavior, which is addressed through student conduct and may require alcohol education attendance. The cost of the course is the responsibility of the student. Refer to student policy and sanctions for further information.

Alcohol violations may result in Minor in Possession (MIP) and other criminal charges, with more severe consequences depending on the behavior documented at the time of the incident.

## **On-Campus Events**

Alcoholic beverages on University property must adhere to the following conditions:

1. All events on university property involving the service of alcoholic beverages, except those in family housing apartments, the Chancellor's residence, and university rental houses, must be scheduled with the UMW Conference & Event Services Office.
2. Consumption should be in connection with a substantive event, such as a banquet, official entertainment, reception, or approved tailgate party.
3. Food and nonalcoholic beverages must be available.
4. The event must be monitored to prevent consumption by individuals below the legal drinking age.
5. All events involving alcoholic beverages must possess appropriate licenses and permits.
6. The sale of alcoholic beverages or any indirect means of collecting money to pay for alcoholic beverages is prohibited, unless a licensed alcohol vendor caters the event, or a temporary alcohol permit is obtained from the State. The vendor must hold a current Montana all-beverage license and an annually renewable catering permit.
7. University or student club funds may not be used to purchase alcoholic beverages.
8. Each club or organization sponsoring an event must adhere to the risk management guidelines outlined in this policy.
9. Unreasonable or irresponsible conduct or violation of any regulation, or noncompliance with any limitation herein, may lead to the discontinuance of the event and subsequent denial of university services and facilities.

10. UMW Foundation events serving alcoholic beverages on campus are not subject to this policy unless it is co-sponsored by a student club. These events are approved through the catering policy.

### **Off-Campus Events**

University sponsored events off-campus must meet the same requirements as on-campus events. Any University recognized student club sponsoring an off-campus gathering, meeting, or other activity involving alcoholic beverages must also meet the same requirements as on-campus events, with the following exceptions:

1. Student officers or officials must meet with the club's advisor to ensure their risk management plan aligns with University alcohol policies and risk management guidelines and have the event approved by the Chancellor.
2. A university recognized student club sponsoring an off-campus event involving alcoholic beverages must have the event catered by a licensed vendor if fifteen (15) or more persons attend. Vendor approval by Conference & Event Services is not required.
3. A university recognized student club sponsoring an off-campus event involving alcoholic beverages is not required to have the event catered by a licensed vendor if fourteen (14) or fewer persons attend. However, the sale of alcohol is prohibited unless a licensed vendor caters the event.
4. Event participants may contribute personal funds to purchase alcoholic beverages for the event. Students organizing and participating in such events assume responsibility for serving alcohol and monitoring its use in accordance with local ordinances, state and federal laws, and Board of Regents and UMW policies.
5. University recognized student clubs may not apply for a special permit from the State of Montana Liquor Division.
6. Violations of University alcohol regulations are also violations of the UMW Student Conduct Code. Violators may face disciplinary action pursuant to the Code, including the potential denial of privileges or other sanctions for alcohol violations.

### **Alcohol Risk Management Guidelines and Procedures**

Risk management guidelines are essential to safeguard the University community against potential harm and legal liability. Therefore, consistent enforcement of policies and the following strategies are crucial in planning and implementing any event:

1. Promote alcohol-free events.
2. Ensure reasonable amounts of food and nonalcoholic beverages are available at the same place and are prominently featured alongside alcoholic beverages.
3. Strictly prohibit the serving of alcoholic beverages to minors. Adults risk criminal and civil liability when minors consume alcoholic beverages.
4. Limit direct access to alcoholic beverages to designated servers at social functions where the sponsoring organization provides alcohol. Consumption should only occur within designated and monitored areas.
5. Prohibit drinking competitions.

6. Discourage activities that promote forced consumption of alcohol, which can expose individuals providing alcohol to liability.
7. Limit the service and consumption of alcoholic beverages to four (4) hours, with exceptions, as necessary.
8. Refuse service to anyone who appears intoxicated.
9. Implement a plan to control and limit the quantity of alcohol served.
10. Control access to the event.
11. Provide assistance to individuals who are abusing alcohol.
12. Encourage and/or provide safe transportation to and from events, including a designated driver program.
13. Specify that alcohol consumption at tailgate parties may begin no earlier than two (2) hours before the scheduled start of the game and may continue no later than the start of the second half of the game.
14. Offer ongoing education to inform individuals about the potential risks associated with excessive alcohol use.
15. Ensure that alcohol is not the primary focus of the event.
16. Prohibit the use of the quantity of alcohol as an inducement to attend or participate in an event. Event promotional materials should not refer to the amount of alcohol available for consumption, such as the number of beer kegs.
17. Clearly mention the availability of nonalcoholic beverages in event advertisements.
18. Do not provide alcoholic beverages as free awards to individual students or campus groups.

### **Advertising and Promotion Involving Alcohol**

For any University related event or activity, The University of Montana Western shall not:

1. Use beer, wine, or liquor products (name, trademark, or logo) in advertisements and promotions for, or as sponsors of, any University event or activity, regardless of location.
2. Use any University logo, trademark, or name in conjunction with alcoholic beverage products or symbols.
3. Make alcohol the central focus of any University event or use the availability of beer or other alcoholic beverages to promote any University event.

## **Campus Policy 100.6: Drug-Free Campus**

### **Purpose of this Policy**

The primary purpose of this policy is to ensure compliance with the Drug-Free Schools and Communities Act of 1989. Any faculty member, staff member, or student found in violation of this prohibition or uncooperative in maintaining a drug-free environment will be subject to disciplinary action, up to and including expulsion or dismissal from UMW. Additionally, they may be required, at their own expense, to enroll in a substance abuse counseling and/or treatment program as a condition of continuing their affiliation with the University.

### **Policy**

The University of Montana Western is unwavering in its commitment to maintaining a drug-free campus. In accordance with The Drug-Free Schools and Campuses Regulations (34 CFR Part 86) of the Drug-Free Schools and Communities Act (DFSCA), it is imperative for the University, as an institution of higher education, to adhere to the following:

The DFSCA mandates that any institution of higher education, such as the University of Montana Western, must certify that it has established and implemented a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees as a condition of receiving funds or any other form of financial assistance under any federal program. Failure to comply with the Drug-Free Schools and Communities Regulations during an audit may result in an institution forfeiting eligibility for federal funding.

### **Procedures**

To certify its compliance with the regulations, the University of Montana Western has implemented a drug prevention program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by all students and employees, both on school premises and as part of any of its activities. To achieve compliance with the regulations, the University of Montana Western undertakes the following actions:

1. Drafts a written policy on alcohol and other drugs.
2. Establishes an effective method of distributing the policy to every student and IHE staff member annually.
3. Prepares a biennial review report assessing the effectiveness of its alcohol and other drug (AOD) programs and policy enforcement consistency.
4. Maintains its biennial review report on file for potential submission to the U.S. Department of Education, other entities, or individuals upon request.

Individuals violating town ordinances, state criminal laws, or federal laws related to alcohol or drug use also risk facing fines and imprisonment.

Should questions arise regarding these guidelines or policies, please contact the Dean of Students for the appropriate department for referral. Faculty, staff, and students are encouraged to familiarize themselves with available resources in substance abuse, counseling, and treatment. Additionally, Student Counseling is available to assist students dealing with substance-related issues.

## **Campus Policy 705.3: Drug-Free Workplace**

### **Purpose of this Policy**

The primary purpose of this policy is to create a safe and healthy environment for UMW employees, students, and visitors.

### **Policy**

In strict compliance with the Drug-Free Workplace Act of 1988, The University of Montana Western is unwavering in its commitment to maintaining a drug-free workplace. The unlawful manufacture, distribution, sale, possession, or use of a controlled substance in the workplace or during university business is expressly prohibited.

### **Procedures**

All employees will receive a copy of this policy, and they are obligated to adhere to it.

Furthermore, employees must promptly notify their immediate supervisor of any criminal drug statute conviction for a violation that occurs in the workplace within five (5) days following such conviction. The supervisor is responsible for immediately informing the Vice Chancellor for Administration & Finance/Student Affairs upon receiving such notice from the employee. The Vice Chancellor for Administration & Finance/Student Affairs is responsible for promptly notifying the appropriate federal granting agency of the conviction if the employee involved is engaged in work related to a federal grant or contract, within ten days of being notified of the conviction.

Employees found in violation of this policy will be subject to a counseling referral and/or disciplinary action in accordance with personnel policy or applicable collective bargaining agreements. The University recognizes that behavioral health problems that impact work performance may be remedied through treatment or counseling. The University strongly supports such counseling measures, and employees are encouraged to seek these services.

The University has secured employee assistance counseling and referral services through a contract. The University Counseling and Wellness Program, in collaboration with Human Resource Services, periodically conducts awareness training about the effects of drug use and abuse. Additionally, it offers counseling to employees regarding available assistance under the group insurance plan and makes confidential referrals to the employee assistance program.

### **Student Employees**

It is unlawful for student employees to engage in the manufacture, distribution, sale, or possession of a controlled substance in the workplace. Student employees are notified of this policy when signing their employment documents and are subject to disciplinary action, similar

to any other employee. Awareness training about the effects of drug use and abuse is available to students through counseling services at the University.



## **Student General Conduct, Procedures and Sanctions – Alcohol and Other Drugs**

### **Student Code of Conduct: Article VI – Proscribed General Conduct**

Students bear the responsibility to conduct themselves in a manner that upholds the welfare and educational opportunities of others within the Montana Western community. Students must exemplify responsible membership in the academic community, respect the rights, privileges, and dignity of others, and abstain from actions that disrupt normal university functions.

**General Misconduct** encompasses all forms of misconduct, excluding academic misconduct. While some acts listed below may constitute criminal acts under Montana law, Montana Western primarily concerns itself with non-academic misconduct that directly impacts the Montana Western community. General misconduct is subject to university disciplinary actions, and it includes the following standards of conduct related to alcohol and other drugs:

1. **Alcoholic Beverages:** Use, possession, or distribution of alcoholic beverages on university premises or at university-sponsored activities, except as permitted in university policies (Facility Use Policy and Alcohol Policy – see above). Note that, according to Montana law, the use or abuse of alcohol does not excuse abusive or damaging behavior; such use or abuse will not serve as grounds for reduced sanctions for Conduct Code violations.
2. **Smoking & Tobacco:** The use of tobacco (including cigarettes, cigars, e-cigarettes, pipes, bidi, hookah, snus, orb, vape, vapor, vaporizer pens, all forms of smokeless tobacco) by students, faculty, staff, guests, visitors, and contractors is prohibited on all properties owned or leased by The University of Montana Western.
3. **Medical Marijuana:** Use, possession, or distribution of medical marijuana is prohibited, despite Montana state law permitting the use of medical marijuana for individuals possessing lawfully issued medical marijuana cards. Federal laws prohibit marijuana use, possession, and cultivation at educational institutions and on the premises of other recipients of federal funds. Therefore, the use, possession, or cultivation of marijuana for medical or recreational purposes is strictly prohibited in all University of Montana Western housing and on any other University of Montana Western property, as well as at any University-sponsored event or activity off-campus.
4. **Controlled Substances:** Illegal use, possession, or distribution of any controlled substance on university premises or at university-sponsored activities; or illegal distribution of any controlled substance off-campus, subject to procedures in Section I, Jurisdiction.

Montana Western will impose disciplinary sanctions (consistent with local, state, and federal laws), and consistently enforce such sanctions concerning the unlawful possession, use, or distribution of alcohol and illicit drugs by students. Violations of this policy will result in disciplinary action up to and including expulsion and may have legal consequences. A student

violating this policy may be required to satisfactorily complete a drug abuse assistance or rehabilitation program as an alternative to suspension or expulsion. Anyone unlawfully possessing or using drugs risks being reported to the appropriate law enforcement agency.

## **Procedures for General Misconduct**

### **Overview:**

This overview gives a general idea of how the University of Montana Western conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible and not the same in every situation, though consistency in similar situations is a priority. The campus conduct process, and all applicable timelines commence with notice to an administrator of a potential violation of University of Montana Western policy or other rules.

1. Once notice or a report is received from any source (victim, RA, third party, online, etc.), the Dean of Students or Residence Life conduct officials may proceed with a preliminary investigation and/or may schedule an initial educational meeting/conference with the responding student to explain the conduct process to the responding student and gather information.
2. Incidents involving alleged violations of the Student Code of Conduct that occur within any of the Housing areas are investigated and adjudicated by designated Residence Life staff.
3. Incidents that occur outside of the housing areas are investigated and/or adjudicated by the Dean of Students. In some instances, incidents that occur off campus will be investigated and/or adjudicated by the Dean of Students. Serious cases with potential sanctions of suspension or expulsion from the University will be referred directly to the Dean of Students, regardless of where they originate.

### **Procedures:**

1. A referral is made to the Dean of Students or designee. The designated staff member receiving the referral will begin a preliminary investigation to determine if an alleged violation has occurred. If a determination is made that no violation occurred, then the referral is closed. If the determination is made that an alleged violation may have occurred, then the investigation continues.
2. A student or students will be notified via Maxient to their student email account that a report has been received and their attendance to discuss this report is requested. The student will be presented with the alleged charge(s) being investigated and their rights through the conduct process. This is known as the Preliminary Meeting for the conduct process.
3. At this time, the student can choose to meet with an administrative conduct officer to discuss the report and what evidence they have. This meeting is known as the Findings Meeting.

- (i) The Findings Meeting must occur within five (5) working days of the Preliminary Meeting unless alternate arrangements are made that are agreeable to both parties.
  - (ii) During the Findings Meeting, the student will have the opportunity to review relevant evidence and have an opportunity to respond to the evidence and potential charges. The student will also have the opportunity to present additional evidence or witnesses if applicable. Both parties are allowed to ask questions of each other and seek clarification.
  - (iii) If the student does not show to the Findings Meeting, the charges are accepted as outlined in the notice letter and appropriate sanctions will be imposed. The student is notified of the findings and the sanctions (if applicable) and loses the right to further appeal.
4. After completing the Findings Meeting, the administrative conduct officer will then complete their investigation and determine if there is a violation of the Code of Conduct or not, as well as impose appropriate sanctions.
  5. The administrative conduct officer summarizes the findings and recommended sanctions (if applicable) in a Case Adjudication Letter (Findings Letter) that is sent to the student via Maxient to their student email account. This letter includes findings for each individual charge, a statement of evidence that informed that decision, and a list of recommended sanctions.
  6. Except for interim action that may be taken by the University, disciplinary sanctions are not imposed until the final resolution of the charges or until the deadline for a final appeal has passed.
  7. The University of Montana Western retains the right to contact parents of students under the age of 21 who become involved in or are adjudicated for violations of Montana Western's drug and alcohol policies. Contacts are made when it is deemed appropriate for the safety and well-being of the student involved.

### **Student Response to Findings Outcome:**

#### **The student has three (3) options in response to the outcome of the Findings Letter:**

- (i) To accept the findings and the sanctions issued.
  - (ii) To not accept the findings and/or the sanctions issued and commence the appeal process.
  - (iii) To not respond at all. The student has five (5) working days to respond to the Findings Letter after being issued.
1. If the student signs the Findings Letter that they are accepting the outcome, the case is closed, and sanctions are imposed. A copy of the letter is kept on file by the Dean of Students in Maxient and a copy is given to the student.
  2. If the student does not accept the Findings Letter or sanctions, the student can request the case be transferred to the next appellate authority. The student also needs to submit a statement indicating their reason for appealing (see criteria for Appeal in [Article VII.4](#)).
  3. If the student chooses not to sign the Findings Letter or otherwise request that the case be transferred to the next appellate authority within five (5) working days, the findings and

sanctions are accepted, and the student loses the right to appeal the case further. This letter is kept on file by the Dean of Students in Maxient and a copy is provided to the student.

## **Student Code of Conduct: Article VII – Sanctions Imposed by the University for General Misconduct**

1. **General Behavior Sanctions** (Also apply to Residence Hall and Family Housing violations). Sanctions may include any one or more of the following:
  - (i) **Disciplinary Warning:** The student is warned that further misconduct may result in severe disciplinary sanctions.
  - (ii) **Disciplinary Probation:** The student continues attendance at Montana Western and is subject to restrictions and/or conditions imposed by the University for a specified period of time.
  - (iii) **Suspension:** The student is separated from the University for a specified period of time and may also be excluded from participation in any University-sponsored activity. A sanction of suspension requires approval by the Provost.
  - (iv) **Expulsion:** The student is permanently separated from the University and/or from University-owned or controlled property or events. This sanction requires an administrative review by the Vice Chancellor for Administration, Finance, and Student Affairs. A sanction of expulsion requires approval by the Provost.
  - (v) **Restitution:** The student is required to make payment to the University and/or another person or entity for actual financial loss resulting from a Student Code of Conduct violation.
  - (vi) **Withholding or Revocation of a Degree:** A degree is withheld, or a previously awarded degree is rescinded. This sanction may be imposed when a person who is no longer enrolled is found to have violated the Code during the time of enrollment, and the proper sanction would have been expulsion (See Article I, Section B “Definitions of Student”).
  - (vii) **Community Service:** Students may be required to perform a certain number of unpaid volunteer service hours.
  - (viii) **Other Sanctions:** In addition to or in lieu of the above, other sanctions may be imposed. For example, the student may be evicted from the Residence Halls or Family Housing, may be prohibited from attending campus events or participating in organized activities, and/or may be required to attend and complete classes, programs, workshops, or counseling dealing with specific behaviors, such as drug and alcohol abuse and sexual offenses, as conditions of current or future enrollment.
2. **Mitigating Factors:** Committing any act prohibited by this Code may result in suspension or expulsion from the University unless specific and mitigating factors are present. Potential mitigating factors include:
  - (i) The attitude of the student.
  - (ii) Disciplinary history.

- (iii) The nature of the offense.
  - (iv) The severity of any damage, injury, or harm resulting from it.
3. **Readmission:** Readmission to the University after suspension for general misconduct is dependent upon the student's compliance with the conditions of the suspension and the student's fitness to return to the campus community. These decisions are made by the Dean of Students upon consultation with appropriate campus officials and/or community members. In some cases, appropriate documentation may be required for readmission. Upon readmission, the student may be placed on disciplinary probation for a designated period of time with required conditions and expectations of behavior.

### **Alcohol Sanctions for Residents of Residence Halls and/or Family Housing**

1. **1st Offense** – Disciplinary Warning
2. **2nd Offense** – Completion of an Alcohol Education Course, a \$60 fine, and a mandatory meeting with counseling
3. **3rd Offense** – Completion of an Alcohol Education Course, an Alcohol Assessment with counseling, a \$75 fine, and placement on Disciplinary Probation for one year.
4. **4th Offense** – Immediate removal from University Housing.

\*Note: More severe consequences may be applied depending on the behavior exhibited at the time of the incident, potentially leading to a 2nd, 3rd, or 4th offense designation on a student's first violation.

### **Faculty Authority**

Faculty members have the independent authority to exclude a student from any class session in which the student displays disruptive behavior that threatens the learning environment or safety and well-being of others in the classroom. The student remains eligible to return to the next class session. The faculty member maintains the authority to remove the student from each class session during which the student is disruptive. The student may be suspended permanently from a class upon recommendation of the Dean of Students under the disciplinary procedures outlined in this Code.

# University Policies of Special Note for Students

## Alcohol Policy Summary

The consumption of alcoholic beverages on property owned by the Montana University System is prohibited unless expressly permitted.

Unless otherwise authorized by the Chancellor or designee, alcoholic beverages may not be consumed on campus.

Authorization by the Chancellor for the consumption of alcoholic beverages must adhere to the following:

1. Consumption must be in connection with a substantive event, such as a banquet, official entertainment, or reception.
2. Food and non-alcoholic beverages must also be available.
3. The event must be monitored to prevent consumption by persons not of legal age.
4. A waiver form must be submitted before the event.

The University of Montana Western reserves the right to contact parents of students under the age of 21 who become involved in or are adjudicated for violations of Montana Western's drug and alcohol policies. Contacts are made when it is deemed appropriate for the safety and well-being of the student involved.

## Definitions

"Alcoholic beverage" means any beverage subject to the Montana Alcoholic Beverages Code.

"Property belonging to the Montana University System" refers to any property owned, leased, or otherwise controlled by any unit of the Montana University System.

For more detailed information regarding Montana Western's alcohol use policies ([Policy 100.5](#)), please contact the Conference & Events Office at Mathews Hall at (406) 683-7566.

## Tobacco Free Campus Policy

The use of tobacco (including cigarettes, cigars, e-cigarettes, pipes, bidi, hookah, snus, orbs, all forms of smokeless tobacco) by students, faculty, staff, guests, visitors, and contractors is prohibited on all properties owned or leased by The University of Montana Western.

## Drug-Free Schools and Communities Act

In accordance with the Drug-Free Schools and Communities Act of 1989, the unlawful possession, use, or distribution of alcohol and illicit drugs by University employees and its students on institutional property or at any of its activities is prohibited. Montana Western will

uphold the standards of conduct that prohibit the unlawful possession, use, or distribution of alcohol and illicit drugs by its employees and students.

Montana Western will impose disciplinary sanctions (consistent with local, state, and federal laws), and consistently enforce such sanctions relating to the unlawful possession, use, or distribution of alcohol and illicit drugs by its employees and students. Violations of this policy will result in disciplinary action up to and including termination or expulsion and may have legal consequences. A student violating this policy may be required to satisfactorily complete a drug abuse assistance or rehabilitation program as an alternative to suspension or expulsion. Anyone unlawfully possessing or using drugs risks being reported to the appropriate law enforcement agency.

For students seeking assistance with substance use or abuse-related issues, there are at least two alternatives:

1. Schedule an appointment with a counselor at Student Counseling Services to identify at-risk behavior or obtain coping strategies for substance use disorders. Services are available to help students with substance abuse problems, including managing friends and family who may have substance abuse concerns. Call (406) 683-7388 to set up a confidential appointment.
2. Barrett Hospital and Healthcare (BHH) also provides confidential outpatient drug and alcohol counseling services. To establish care with a therapist at BHH, you may call (406) 683-1188.

# Bulldog Athletics Standards of Conduct Regarding Alcohol and Other Drugs

## Alcohol

Prohibited acts include:

1. Possessing or consuming alcohol if under the age of 21. ALL use of alcohol is prohibited on the UMW campus or during any UMW sponsored event, regardless of age.
2. Operating a motor vehicle while under the influence of alcohol.
3. Misrepresenting one's age for the purpose of purchasing, possessing, or consuming alcohol.
4. Purchasing, furnishing, or serving alcohol to or for an underage person.
5. Being dangerously intoxicated to the point where State law mandates being taken into custody.
6. Other prohibited acts as outlined in the UMW [Student Code of Conduct](#).
7. Violations of additional Team Rules regarding alcohol use.
8. Consumption of alcohol during team travel or at team functions.

## Other Drugs

Prohibited acts include:

1. Possessing or using illegal substances, as defined by law.
2. Possessing or using controlled substances as defined by law (provided that controlled substances may be taken pursuant to a properly issued prescription in the amount prescribed).
3. Distributing, selling, or possessing with the intent to distribute illegal or controlled substances, as defined by law.
4. Using tobacco products during practice, competition, or other team functions.
5. Other prohibited acts as described in the UMW [Student Code of Conduct](#).

## Disciplinary Process and Sanctions

The Department of Athletics' disciplinary process is independent of and supplements the University judicial process. The Department of Athletics may levy sanctions beyond those imposed by the normal University judicial process and for violations that do not fall under the rules of other authorities. Sanctions will vary depending on the type and circumstances of the violation. A first-time offense may be serious enough to warrant any of the possible sanctions listed below. Failure to participate and cooperate in a Department of Athletics, Frontier Conference, NAIA, or NIRA investigation of a violation of this Code of Conduct, Frontier Conference, NAIA, or NIRA rules, may itself constitute a basis for disciplinary action. Sanctions include, but are not limited to:

1. **Warning:** The issuance of a written warning or letter of expectation.
2. **Probation:** Special status with conditions imposed for a limited time.



3. **Community Service.**
4. **Restitution:** Payment for damaged property.
5. **Temporary Suspension:** Removal of a student-athlete from all Department of Athletics activities, including athletic participation in team events, for a limited time.
6. **Suspension:** Removal of a student-athlete from all Department of Athletics activities, including athletic participation in team events, for a specified period of no less than one season.
7. **Expulsion:** Permanent removal from a team and/or Department of Athletics activities.

### **Violations of Team Rules**

Head Coaches will establish team rules consistent with this Code of Conduct. Team rules shall be in writing and distributed to team members at the start of each academic year or the beginning of the playing season, whichever comes first. The Head Coach and the Director of Athletics have the authority to impose sanctions for the violation of team rules, but the Head Coach shall not impose the sanction of suspension or expulsion from the team without first discussing the circumstances of the suspension or expulsion with the Director of Athletics.

### **Violation of Rules or Policies other than Team Rules**

For violations of rules and policies other than team rules (e.g., violations of Frontier Conference, NAIA or NIRA rules, the UMW Student Code of Conduct, etc.), the Director of Athletics, or the Head Coach with the approval of the Director of Athletics, may impose sanctions.

### **Violation of Criminal Law**

When a student-athlete has engaged in conduct alleged to be in violation of criminal law, immediately upon receipt of notice of such violation the Head Coach must report the information to the Director of Athletics. Student-athletes arrested for, or charged with, violating criminal law will be placed on immediate administrative suspension from involvement in team activity pending further investigation. If a violation would constitute a misdemeanor, the Director of Athletics, in consultation with the Head Coach, may in the exercise of his/her reasonable discretion lift the administrative suspension. If a violation of law constitutes a felony, the administrative suspension may be lifted only upon authorization of the Director of Athletics in consultation with the UMW Chancellor and/or Provost. In all cases in which a student-athlete is arrested for or charged with felony illegal use of drugs, illegal gambling, sexual misconduct or violence, the student-athlete will be immediately suspended, and the suspension may be lifted only by the Director of Athletics in consultation with the UMW Chancellor and/or Provost.

### **Suspension Guidelines**

When suspended from involvement in team activities (competition, meetings, practices), a student-athlete may be allowed use of facilities for academic services, athletic training, and strength and conditioning. The Head Coach may, for violation of criminal law, impose team

sanctions on the student-athlete apart from the athletic department issued suspension with the approval of the Director of Athletics. By suspending the student-athlete, the UMW athletic department is not pre-judging guilt or innocence; rather, the suspension protects the integrity of UMW, our athletic department, our student-athletes, and sports programs.

### **Termination of scholarship benefits**

The Director of Athletics may pursue revocation or modification of athletically related financial aid, such as a scholarship, as a consequence of any and all levels of misconduct. Any action to revoke or modify athletically related financial aid will be in accordance with NAIA, NIRA, Frontier Conference, and institutional procedures.

### **Multi-Sport Athletes**

Multi-sport athletes will not be relieved of any sanctions previously imposed in connection with rules violations while participating in another team sport when changing sports.

### **Referral to Counseling**

Students who, in the judgment of their Coach, Athletic Trainer, or the Director of Athletics, signal a need for professional assistance will be referred to appropriate counseling resources. Counseling services available through UMW should be coordinated through the Office of Student Counseling Services in the Dean of Students Center (683-7388). It is the student-athlete's responsibility to follow up on this referral and to adhere to professional recommendations. Counseling services are confidential and free of any additional cost to all UMW Students.

### **Drug Testing**

All UMW student-athletes are subject to substance abuse testing. Selection for the testing could occur randomly throughout a student-athletes association with UMW. The Director of Athletics, and/or his/her designee will determine the date, time, and site for testing. UMW Athletics may conduct random testing throughout the academic year.

In addition to random testing, UMW Athletics reserves the right to screen a student-athlete anytime there is reasonable suspicion that he/she may be engaged in the use of banned substances. The term "reasonable suspicion" means that information has been given to a member of the coaching staff, athletic trainers, and/or an athletics administrator, regarding a student-athlete's possible use of banned substances. Other events or conduct may rise to the level of reasonable suspicion, including but not limited to:

1. A student-athlete's possession or use of a prohibited substance.
2. A student-athlete's arrest or conviction related to the possession of, use, or trafficking of banned substances.
3. Abnormal conduct interpretable as being caused by banned substances.

Reasonable suspicion shall not mean a mere “hunch” or “intuition.” It shall be based upon a specific event or occurrence, which leads to the belief based on reasonable circumstances that a student-athlete has used a banned substance.

1. Such belief may be engendered by direct observation, a physical or mental deficiency, medically indicated symptomology of banned substance use, suspicious conduct, or unexplained absence.
2. Such belief may also be engendered by information supplied by reliable third parties corroborated by objective facts.
3. Such belief may also be engendered by common-sense conclusions about observed or reliably described human behavior upon which practical people ordinarily rely.

# **Part 2:**

## **Montana Laws and Sanctions**

## **Montana Sanctions for Possession or Consumption of Tobacco Products by Persons under the Age of 18**

### **45-5-637. Possession or consumption of tobacco products, alternative nicotine products, or vapor products by persons under 18 years of age prohibited -- unlawful attempt to purchase -- penalties.**

(1) A person under 18 years of age who knowingly possesses or consumes a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302, commits the offense of possession or consumption of a tobacco product, alternative nicotine product, or vapor product.

(2) A person convicted of possession or consumption of a tobacco product, alternative nicotine product, or vapor product:

- (a) shall be fined \$50 for a first offense, no less than \$75 or more than \$100 for a second offense, and no less than \$100 or more than \$250 for a third or subsequent offense; or
- (b) may be adjudicated on a petition alleging the person to be a youth in need of intervention under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

(3) A person convicted of possession or consumption of a tobacco product, alternative nicotine product, or vapor product may also be required to perform community service or to attend a tobacco cessation program.

(4) A person under 18 years of age commits the offense of attempt to purchase a tobacco product, alternative nicotine product, or vapor product if the person knowingly attempts to purchase a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302. A person convicted of attempt to purchase a tobacco product, alternative nicotine product, or vapor product:

- (a) for a first offense, shall be fined \$50 and may be ordered to perform community service; or
- (b) for a second or subsequent offense, shall be fined an amount not to exceed \$100 and may be ordered to perform community service.

(5) The fines collected under subsections (2) and (4) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made.

# **Montana Sanctions for Possession or Consumption of Alcohol by Persons under the Age of 21**

## **Possession of Intoxicating Substances Persons Under 21:**

(1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes, uses, has in the person's possession, or delivers or distributes without consideration an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages or marijuana. A person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under 16-6-305 or when during employment it is necessary to possess alcoholic beverages or marijuana.

## **Penalties for Persons Under 18 Years of Age:**

(2) (a) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years of age who is convicted under this section:

(i) for a first offense, shall be fined an amount not less than \$100 and not to exceed \$300 and:

(A) shall be ordered to perform 20 hours of community service; and

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and

(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b).

(ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600 and:

(A) shall be ordered to perform 40 hours of community service; and

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and

(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7).

(iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$900 and:

(A) shall be ordered to perform 60 hours of community service; and

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a

- community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and
  - (C) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7); and
  - (D) if the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).
- (b) if the convicted person fails to complete the community-based substance abuse information course and has a driver's license, the court shall order the license suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense. The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b).

### **Penalties for Persons 18 Years of Age or Older:**

- (3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance:
- (a) for a first offense:
    - (i) shall be fined an amount not less than \$100 or more than \$300; and
    - (ii) shall be ordered to perform 20 hours of community service; and
    - (iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8).
  - (b) for a second offense:
    - (i) shall be fined an amount not less than \$200 or more than \$600; and
    - (ii) shall be ordered to perform 40 hours of community service; and
    - (iii) shall be ordered to complete and pay for an alcohol or drug information course at an alcohol or drug treatment program that meets the requirements of subsection (8), which may, in the court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both.
  - (c) for a third or subsequent offense:
    - (i) shall be fined an amount not less than \$300 or more than \$900; and
    - (ii) shall be ordered to perform 60 hours of community service; and
    - (iii) shall be ordered to complete and pay for an alcohol or drug information course at an alcohol or drug treatment program that meets the requirements of subsection (8), which may, in the sentencing court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and
    - (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.

### **Attempt to Purchase Intoxicating Substance:**

- (4) A person under 21 years of age commits the offense of attempting to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage or marijuana. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

### **Transfer to Youth Court**

- (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in 41-5-103. The youth court may enter its judgment under 41-5-1512.

### **Interference with a Sentence or Court Order:**

- (6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both.

### **Chemical Dependency Assessment and Treatment:**

- (7) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment.
- (a) The assessment must be completed at a treatment program that meets the requirements of subsection (8) and must be conducted by a licensed addiction counselor. The person may attend a program of their choice if a licensed addiction counselor provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment.
  - (b) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment, if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (8).
  - (c) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the Department of Public Health and Human Services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based on the determination of one of the counselors.
  - (d) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure.



## **Requirements for Substance Abuse Information and Alcohol Treatment Programs:**

- (8)
- (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be:
    - (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or
    - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for Medicare and Medicaid services to provide chemical dependency services.
  - (b) An alcohol or drug information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol or drug treatment program:
    - (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or
    - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for Medicare and Medicaid services to provide chemical dependency services.
  - (c) A chemical dependency assessment required under subsection (7) must be completed at a treatment program:
    - (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or
    - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for Medicare and Medicaid services to provide chemical dependency services.

## **Protection for Reporting Crimes:**

- (9) Information provided or statements made by a person under 21 years of age to a health care provider or law enforcement personnel regarding an alleged offense against that person under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this section. This subsection's protection also extends to a person who helps the victim obtain medical or other assistance or report the offense to law enforcement personnel.

**Exceptions:**

(10)

- (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if:
  - a. the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment; or
  - b. the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or
  - c. the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.
- (b) For the purposes of this subsection (10), the following definitions apply:
  - (i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.
  - (ii) "Medical treatment" means medical treatment provided by a health care facility or an emergency medical service. (See compiler's comments for contingent termination of certain text.)

# Montana Sanctions for Driving Under the Influence of Alcohol and Other Drugs (DUI)

## **MCA-61-8-1001. Definitions.**

As used in this part, unless the context requires otherwise and unless a different meaning plainly is required, the following definitions apply:

- (1) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and:
  - (a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.16 or more;
  - (b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;
  - (c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence, or a similar offense under previous laws of this state or the laws of another state; or
  - (d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent statute.
- (2) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains 0.5% or more of alcohol by volume.
- (3) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title.
- (4) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.
- (5) "Camper" has the meaning provided in 61-1-101.
- (6) "Commercial motor vehicle" has the meaning provided in 61-1-101.
- (7) "Drug" means any substance that when taken into the human body can impair a person's ability to operate a vehicle safely. The term includes the meanings provided in 50-32-101 (6), (7), and (14).

(8) "DUI court" means any court that has established a special docket for handling cases involving persons convicted under 61-8-1007 or 61-8-1008 and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-1009 and to end the participant's criminal behavior associated with the use of alcohol or drugs.

(9) "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway.

(10) "Motor home" has the meaning provided in 61-1-101.

(11) "Motor vehicle" has the meaning provided in 61-1-101.

(12) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially removed.

(13) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment.

(14) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

(15) "Vehicle" has the meaning provided in 61-1-101, except that the term does not include a bicycle.

### **MCA-61-8-1002. Driving under the influence**

(1) A person commits the offense of driving under the influence if the person drives or is in actual physical control of:

- (a) a vehicle or a commercial motor vehicle upon the ways of this state open to the public while under the influence of alcohol, any drug, or a combination of alcohol and any drug;
- (b) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.08 or more;
- (c) a commercial motor vehicle within this state while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.04 or more;
- (d) a noncommercial vehicle or commercial motor vehicle within this state while the person's tetrahydrocannabinol level, excluding inactive metabolites, as shown by analysis of the person's blood or other bodily substance, is 5 ng/ml or more; or

(e) a vehicle within this state when the person is under 21 years of age at the time of the offense while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.02 or more.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood, breath, or other bodily substance drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) if there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol;

(b) if there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person; and

(c) if there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(3) The provisions of subsection (2) do not limit the introduction of any other competent evidence bearing on the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(4) Each municipality in this state is given authority to enact this section, with the word "state" changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and the imposition of the fines and penalties provided in the ordinance.

(5) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section.

(6) When the same acts may establish the commission of an offense under subsection (1), a person charged with the conduct may be prosecuted for a violation of another relevant subsection under subsection (1). However, the person may be convicted of only one offense under this section or of a similar offense under previous laws of this state.

### **MCA-61-8-1007. Penalty for Driving Under Influence – First through Third Offences**

(1)

(a) Except as provided in subsection (1)(b) or (1)(c), a person convicted of a violation of 61-8-1002(1)(a) shall be punished as follows:

(i) for a first violation, by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less

than 48 consecutive hours or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000;

(ii) for a second violation, by imprisonment for not less than 7 days or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 14 days or more than 1 year and a fine of not less than \$2,400 or more than \$4,000; or

(iii) for a third violation, by imprisonment for not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000.

(b) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-1008.

(c) If the person has a prior conviction or pending charge for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), or a similar offense under previous laws of this state or the laws of another state that meets the definition of aggravated driving under the influence in 61-8-1001, the person shall be punished as provided in subsection (4).

(d) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(e) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court:

(i) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts, if available;

(ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(2)

(a) Except as provided in subsection (2)(b) or (2)(c), a person convicted of a violation of 61-8-1002(1)(b), (1)(c), or (1)(d) shall be punished as follows:

(i) for a first violation, by imprisonment for not more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not more than 6 months and by a fine of not less than \$1,200 or more than \$2,000;

(ii) for a second violation, by imprisonment for not less than 5 days or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 10 days or more than 1 year and by a fine of not less than \$2,400 or more than \$4,000; or

(iii) for a third violation, by imprisonment for not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000.

(b) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-1008.

(c) If the person has a prior conviction or pending charge for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), or a similar offense under previous laws of this state or the laws of another state that meets the definition of aggravated driving under the influence in 61-8-1001, the person shall be punished as provided in subsection (4).

(d) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(e) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court:

- (i) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts, if available;
  - (ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and
- if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(3)

(a) A person convicted of a violation of 61-8-1002(1)(e) shall be punished as follows:

- (i) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.
- (ii) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.
- (iii) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18

years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(iv) In addition to the punishment provided in this section, regardless of disposition:

(A) the person shall comply with the chemical dependency education course and chemical dependency treatment provisions in 61-8-1009 as ordered by the court; and

(B) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted or probationary driver's license may not be issued during the suspension period until the person has paid a license reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the offense, has completed at least 30 days of the suspension period.

(b) A conviction under this section may not be counted as a prior offense or conviction under 61-8-1007, 61-8-1008, and 61-8-1011.

(4)

(a) A person convicted of a violation under 61-8-1002 charged as aggravated driving under the influence, as defined in 61-8-1001, shall be punished as follows:

(i) for a first violation, by imprisonment for not less than 2 days or more than 1 year and by a fine of \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 4 consecutive days or more than 1 year and by a fine of \$2,000;

(ii) for a second violation, by imprisonment for not less than 15 days or more than 1 year and by a fine of \$2,500, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 45 days or more than 1 year and by a fine of \$5,000; or

(iii) for a third violation, by imprisonment for not less than 40 consecutive days or more than 1 year and by a fine of \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 90 consecutive days or more than 1 year and by a fine of \$10,000.

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court:

(i) the person is subject to all conditions of the suspended sentence imposed by



the court, including mandatory participation in drug or DUI courts, if available.

(ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and

(iii) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(d) If the person has a prior conviction under 45-5-106, the person shall be punished as in 61-8-100.

(5) In addition to the punishment provided in this section, regardless of disposition, the person shall comply with the chemical dependency education course and chemical dependency treatment provisions in 61-8-1009 as ordered by the court.

(6) A person punished pursuant to this section is subject to mandatory revocation or suspension of the person's driver's license as provided in chapter 5.

**61-8-1009. Driving under influence -- assessment, education, and treatment required.**

(1) In addition to the punishments provided in 61-8-1007 and 61-8-1008, regardless of disposition, a defendant convicted of a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state shall complete a chemical dependency assessment and:

(a) for a first conviction, except as provided in subsection (8)(b), a chemical dependency education course; and

(b) for a second or subsequent conviction for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program under 61-8-1008(1)(a)(i), or as required by subsection (8) of this section, chemical dependency treatment.

(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) The chemical dependency assessment and the chemical dependency education course must be completed at a treatment program approved by the department of public health and human services and must be conducted by a licensed addiction counselor. Approved programs must be evidence-based programs. The defendant may attend a treatment program of the defendant's

choice as long as the treatment services are provided by a licensed addiction counselor. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment and may use health insurance to cover the costs when possible.

(4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. The assessment must conform to quality standards required by the department of public health and human services. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by the department of public health and human services.

(5) The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. The rules must include evidence-based treatment programs or courses approved by the department that are likely to reduce recidivism. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based on the determination of one of the counselors.

(6) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a chemical dependency education course or treatment program. If the defendant fails to attend the course or treatment program, the counselor shall notify the court of the failure.

(7) A court or counselor may not require attendance at a self-help program other than at an open meeting, as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

(8)

(a) Chemical dependency treatment must be ordered for a first-time or second-time offender convicted of a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state upon a finding of moderate or severe alcohol or drug use disorder made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

(b) If treatment is ordered under subsection (8)(a) for a first-time offender, the offender may not also be required to attend a chemical dependency education course.

(9)

(a) On a second or subsequent conviction, the treatment program provided for in subsection (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

(b) If a defendant fails to comply with the monitoring program imposed under subsection

(9)(a), the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 1 year.

(10) Notwithstanding 46-18-201(2), whenever a judge suspends a sentence imposed under 61-8-1007 and orders the person to complete chemical dependency treatment under this section, the judge retains jurisdiction to impose any suspended sentence for up to 1 year.

## Montana Sanctions - Criminal Possession and Distribution of Dangerous Drugs

### **MCA-45-9-101. Criminal distribution of dangerous drugs.**

(1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

(3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), (4), (5), or (6) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than \$50,000, or both.

(4) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than \$50,000.

(b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than \$50,000.

(5) If the offense charged results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years and may be fined not more than \$100,000.

(6) A person convicted of criminal distribution of dangerous drugs that involves distribution of fentanyl, carfentanil, sufentanil, alfentanil, or a fentanyl derivative, and who possessed or distributed a mixture containing one or more of these substances in a combined amount greater than 100 pills or a combined weight greater than 10 grams in a form such as a powder, solid, or liquid, inclusive of any additives or cutting agents, shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years or may be fined not more than \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of the sentence, except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the offender is not eligible for parole.

(7) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.

**MCA-45-9-102. Criminal possession of dangerous drugs.**

(1) Except as provided in Title 16, chapter 12, or 50-32-609, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101, [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

(3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(4) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.

**45-9-103. Criminal possession with intent to distribute.**

(1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101 in an amount greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) Except as provided in subsection (3), a person convicted of criminal possession with intent to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(3) A person convicted of criminal possession with intent to distribute fentanyl shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years or may be fined not more than \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of the sentence, except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the offender is not eligible for parole.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.

## **Part 3: Federal Laws and Sanctions**

# Federal Drug Laws

## **Federal Drug Laws (21 USC Controlled Substances Act)**

Federal law strictly prohibits the possession, use, or distribution of illicit drugs and imposes severe penalties for drug convictions, often including mandatory prison sentences. The following information provides an overview of federal penalties for first convictions, with all penalties being doubled for subsequent drug convictions.

## **Denial of Federal Aid (20 USC 1091)**

The Higher Education Act of 1998 stipulates that students convicted under federal or state law for drug sale or possession will have their federal financial aid eligibility suspended. This suspension encompasses all federal grants, loans, federal work-study programs, and more. The specific penalties are as follows:

1. Students convicted of drug possession become ineligible for one year from the date of the first offense, two years for the second offense, and indefinitely for the third offense.
2. Students convicted of drug sale lose eligibility for two years following the first conviction and indefinitely after the second offense. However, those who lose eligibility can regain it by successfully completing an approved drug rehabilitation program.

## **Rehabilitation**

A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if:

- (A) the student satisfactorily completes a drug rehabilitation program that
  - (i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and
  - (ii) includes two unannounced drug tests.
- (B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or
- (C) the conviction is reversed, set aside, or otherwise rendered nugatory.

## **Forfeiture of Personal Property and Real Estate (21 USC 853)**

Individuals convicted of federal drug offenses that carry prison sentences exceeding one year must forfeit any personal or real property linked to the violation. This includes houses, cars, and other belongings. A warrant of seizure is issued, and property is seized at the time of the individual's arrest on charges that may result in forfeiture.

## **Federal Drug Trafficking Penalties (21 USC 841)**

Penalties for federal drug trafficking convictions vary based on the quantity of the controlled substance involved in the transaction. The following list illustrates the range and severity of

federal penalties for first convictions, with subsequent convictions carrying twice the severity:

1. If the use of a controlled substance illegally distributed leads to death or serious bodily injury, individuals convicted on federal charges of distributing the substance face a mandatory life sentence and fines of up to \$20 million.
2. Those convicted on federal charges of drug trafficking within 1,000 feet of a university ([21 USC 860](#)) face prison terms and fines that are twice as high as the regular penalties for the offense, including a mandatory prison sentence of at least 1 year.

### **Federal Drug Offenses and Penalties (21 USC 841)**

<b>Drug/Substance</b>	<b>Amount</b>	<b>Penalty - 1st Conviction</b>
Barbiturates	Any amount	Up to 5 years prison. Fine up to \$250,000.
Cocaine	5 kgs. or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	Less than 100 grams	10-63 months prison. Fine up to \$1 million.
Crack Cocaine	50 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	5-49 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
	5 grams or less	10-63 months prison. Fine up to \$1 million.
Ecstasy	Any amount	Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised release (following prison).
GHB	Any amount	Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised release (following prison).
Hashish	10-100 kg	Up to 20 years imprisonment. Fine up to \$1 million.
	10 kg or less	Up to 5 years imprisonment. Fine up to \$250,000.
Hash Oil	1-100 kg	Up to 20 years imprisonment. Fine up to \$1 million.
	1 kg or less	Up to 5 years imprisonment. Fine up to \$250,000.
Heroin	1 kg or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	100-999 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
	100 grams or less	10-63 months prison. Fine up to \$1 million.
Ketamine	Any amount	Up to 5 years imprisonment. Fine up to \$250,000. 2 years supervised release.
LSD	10 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.



Drug/Substance	Amount	Penalty - 1st Conviction
	1-10 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
Marijuana	1000 kg or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	100-999 kg	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
	50-99 kg	Up to 20 years imprisonment. Fine up to \$1 million.
	50 kg or less	Up to 5 years imprisonment. Fine up to \$250,000.
Methamphetamine	50 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	10-49 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
	10 grams or less	10-21 months prison. Fine up to \$1 million.
PCP	100 grams or more	Not less than 10 years prison, not more than life. Fine up to \$4 million.
	10-99 grams	Not less than 5 years prison, not more than 40 years. Fine up to \$2 million.
	10 grams or less	10-21 months prison. Fine up to \$1 million.
Rohypnol	1 gram or more	Up to 20 years imprisonment. Fine up to \$1 million.
	Less than 30 mgs	Up to 5 years imprisonment. Fine up to \$250,000.

### **Federal Drug Simple Possession Penalties (21 USC 844)**

Individuals convicted on Federal charges of possessing any controlled substance face the following penalties:

#### **First Conviction:**

1. Up to 1 year in prison.
2. A mandatory fine of no less than \$1,000, with a maximum of \$100,000.

#### **Second Conviction:**

1. Not less than 15 days but not more than 2 years in prison.
2. A minimum fine of \$2,500.

#### **Subsequent Convictions:**

1. Not less than 90 days but not more than 3 years in prison.
2. A minimum fine of \$5,000.

Possession of drug paraphernalia is punishable by a minimum fine of \$750.

Special sentencing provisions for possession of crack cocaine impose a mandatory prison term and fine if:

1. It is a first conviction, and the amount of crack possessed exceeds 5 grams.
2. It is a second conviction, and the amount of crack possessed exceeds 3 grams.
3. It is a third or subsequent crack conviction, and the amount exceeds 1 gram.

The penalties for crack cocaine possession under these circumstances include:

1. Mandatory prison term of not less than 5 years but not more than 20 years.
2. A fine of up to \$250,000, or both.

Civil penalties of up to \$10,000 may also be imposed for possession of small amounts of controlled substances, whether or not criminal prosecution is pursued.

### Health Risks of Commonly Abused Substances

Substance	Nicknames/Slang Terms	Short-Term Effects	Long-Term Effects
Alcohol	-	Slurred speech, drowsiness, headaches, impaired judgment, decreased perception and coordination, distorted vision and hearing, vomiting, breathing difficulties, unconsciousness, coma, blackouts, toxic psychosis.	Physical dependence, neurological and liver damage, fetal alcohol syndrome, vitamin B1 deficiency, sexual problems, cancer, physical dependence.
Amphetamines	Uppers, speed, meth, crack, etc.	Increased heart rate, increased blood pressure, dry mouth, loss of appetite, restlessness, irritability, anxiety.	Delusions, hallucinations, heart problems, hypertension, irritability, insomnia, toxic psychosis, physical dependence.
Barbiturates and Tranquilizers	Barbs, bluebirds, blues, etc.	Slurred speech, muscle relaxation, dizziness, decreased motor control.	Severe withdrawal symptoms, possible convulsions, toxic psychosis, depression, physical dependence.

<b>Substance</b>	<b>Nicknames/Slang Terms</b>	<b>Short-Term Effects</b>	<b>Long-Term Effects</b>
Cocaine	Coke, crack, snow, etc.	Loss of appetite, increased blood pressure and heart rate, contracted blood vessels, nausea, hyper-stimulation, anxiety, paranoia, increased hostility, dilated pupils, disturbed sleep.	Depression, weight loss, high blood pressure, seizures, heart attack, stroke, hallucinations, psychosis, chronic cough, nasal passage injury, kidney, liver, and lung damage.
Gamma Hydroxy Butyrate (GHB)	GHB, liquid B, etc.	Euphoria, decreased inhibitions, drowsiness, sleep, decreased body temperature, decreased heart rate, decreased blood pressure.	Memory loss, depression, severe withdrawal symptoms, physical dependence, psychological dependence.
Heroin	H, junk, smack, etc.	Euphoria, flushing of the skin, dry mouth, “heavy” arms and legs, slowed breathing, muscular weakness, constipation, loss of appetite, lethargy, weakening of the immune system.	Respiratory (breathing) illnesses, muscular weakness, partial paralysis, coma, physical dependence, psychological dependence.
Ketamine	K, special K, etc.	Dream-like states, hallucinations, impaired attention and memory, delirium, high blood pressure, depression.	Urinary tract and bladder problems, abdominal pain, major convulsions, muscle rigidity, increased confusion, increased depression, physical dependence, psychological dependence.
LSD	Acid, stamps, dots, etc.	Dilated pupils, change in body temperature, blood pressure, and heart rate, sweating, chills, loss of appetite, decreased sleep, tremors, changes in visual acuity, mood changes.	May intensify existing psychosis, panic reactions, can interfere with psychological adjustment and social functioning, insomnia, physical dependence, psychological dependence.
MDMA	Ecstasy, XTC, etc.	Impaired judgment, confusion, blurred vision, teeth clenching, depression,	Same as LSD, sleeplessness, nausea, confusion, increased blood pressure, sweating,

<b>Substance</b>	<b>Nicknames/Slang Terms</b>	<b>Short-Term Effects</b>	<b>Long-Term Effects</b>
		anxiety, paranoia, sleep problems, muscle tension.	depression, anxiety, memory loss, kidney failure, cardiovascular problems, convulsions, death, physical dependence, psychological dependence.
Marijuana/Cannabis	Pot, grass, dope, etc.	Sensory distortion, poor coordination of movement, slowed reaction time, panic, anxiety.	Bronchitis, conjunctivitis, lethargy, shortened attention span, suppressed immune system, personality changes, cancer, psychological dependence, physical dependence possible for some.
Mescaline	Peyote cactus, etc.	Nausea, vomiting, anxiety, delirium, hallucinations, increased heart rate, blood pressure, and body temperature.	Lasting physical and mental trauma, intensified existing psychosis, psychological dependence.
Morphine/Opiates	M, morph, etc.	Euphoria, increased body temperature, dry mouth, “heavy” feeling in arms and legs, constipation, loss of appetite, collapsed veins, heart infections, liver disease, depressed respiration.	Pneumonia and other pulmonary complications, physical dependence, psychological dependence.
PCP	Crystal, angel dust, etc.	Shallow breathing, flushing, profuse sweating, numbness in arms and legs, decreased muscular coordination, nausea, vomiting, blurred vision, delusions, paranoia, disordered thinking.	Memory loss, difficulties with speech and thinking, depression, weight loss, psychotic behavior, violent acts, psychosis, physical dependence, psychological dependence.
Psilocybin	Magic mushrooms, etc.	Nausea, distorted perceptions, nervousness, paranoia, confusion, memory loss, shortened attention span, flashbacks.	May intensify existing psychosis.

Substance	Nicknames/Slang Terms	Short-Term Effects	Long-Term Effects
Steroids	Roids, juice, etc.	Increased lean muscle mass, increased strength, acne, oily skin, excess hair growth, high blood pressure.	Cholesterol imbalance, anger management problems, masculinization in women, breast enlargement in men, premature fusion of long bones, atrophy of reproductive organs, impotence, reduced fertility, stroke, hypertension, congestive heart failure, liver damage, psychological dependence.

# **Part 4:**

## **Education and Prevention**

## **Education and Prevention**

Within the Montana Western Wellness and Student Counseling offices, individual, group, and community educational programs and interventions are available to the University of Montana Western Community. These initiatives are carefully designed to prevent and diminish alcohol and other drug use and abuse.

In compliance with the Drug-Free Schools and Campuses Act, this policy is annually distributed to all students, staff, and faculty members. Additionally, a comprehensive review of the alcohol and other drug program is conducted biennially during even-numbered years.

In accordance with the Americans with Disabilities Act of 1990, the University is committed to ensuring that no individual faces discrimination based on disability. Everyone has the right to enjoy the goods, services, facilities, privileges, advantages, and accommodations provided by the University. Furthermore, the University guarantees that no qualified individual with a disability will be excluded from participation in, or be denied the benefits of, its services, programs, or activities, nor will they experience any form of discrimination due to their disability.