

MCC DRUG FREE POLICY – CONCERNS for individuals and the Institution

1) Legal and Financial (potential litigation)

a) Policy appears in conflict with

Constitution and principles of democracy
ADA and Rehab Act section 504 (confidentiality)
HIPPA
FERPA ??
Employment law for hourly employees (possibly continuing Contract) can't require change

B) The availability of less severe or intrusive alternatives.

Prohibition on public intoxication is currently enforceable by trained Professionals
Objective performance evaluations and conduct standards (incompatible with Abuse) such as Attendance, Productivity, Responsibility

2) As currently written there is a huge potential for abuse and discrimination

Selective enforcement
Vendetta complaints
National Surveys consistently show general public does not understand and has no Empathic for crazy people, drug addicts or alcoholics, Mental retarded or aids patients. This would exacerbate the problem
Untrained and uninformed persons making accusations

3) As currently written Lack of – cogent full plan/procedure – violates current case law legal precedent

No definitions (responsible employee, reasonable suspicion,...)
Lack of procedures (what tests- all? what levels? Who administers, how? Where, how get there,) what are the costs
Lack of checks and balances or over-sight. No training
Currently HR decides who how trained?
Like prosecutorial discretion (Vast) but prosecutor is elected. This plan Has no remedies --would need over site body like Grand jury
Smell of alcohol (alcohol does not smell) can legally have off campus
Unrealistic or unenforceable
100's of non prescription meds may affect behavior (cold medicine, Allergy meds) in flu season thousands of students need call VP
Who will collect data?
What will happen to those who don't report?

4) Programmatic or Philosophical

Interdiction and criminalization doesn't work & waste of money (look at prisons, cartels)
Should Focus on education and demand side
No real positive Ed plan – (build of culture of non drug , use social pressure)
No dollars put to positive plan (this policy is like our national drug policy – just say no, if homeless get a House, if unemployed, get a job when that doesn't work put them in jail). Very expensive, doesn't solve problem doesn't help people or community.
Should Develop meaning full interventions and ED programs

*** This entire document is grossly
What is the concern here?

The language in Document One (MCC Drug-free Campus Program (Appendix A)) suggests a broad concern that is not limited to the direct consumption of drugs in the workplace; yet the title of the document suggests a more limited direction.

The broad language about behavior suggests PRIVACY infringement

All of this material underneath Appendix A off topic and needs to go because it obscures the real issue/purpose of the need for policy.

What is the process for see #3?

#4 and #5 are too intrusive and infringe on privacy

Who determines this?

One change I would incorporate into the MCC Procedure 1.32.01 is in section II A (Maintenance of Drug free workplace – drug free certification- c) “inferences may be based upon a report of drug/alcohol use provided by a reliable and credible source” and f) “inferences may be based upon evidence that the employee has used ... drugs or alcohol” . There should be a process set up at this point by which an employee can contest the “evidence” or inferences, especially since many drug tests give false positives and an employee should not lose their job or be falsely accused simply because the drug tests are not accurate.

Regarding the drug and alcohol policy, section II, A:

“While in attendance at any college sponsored event”-

I believe we have a wine-tasting coming up in Venice? What about evening celebrations like the event at Michael’s on East?

Also, this makes me uncomfortable about going out to dinner and having a glass of wine prior to attending graduation or a theatrical/musical performance.

I am very concerned about the legality of this policy, but I am not qualified to make a legal judgment.

Is this ‘new’ policy and its implementation legal? The college has a lawyer working on it but do we [faculty]?

What will be included on the list of outwardly observable behaviors warranting attention as possible violations of the drug policy?

A. Who will devise this list of behaviors?

B. What clinical training and credentials will be held by those who devise the list of actionable behaviors?

Who will be considered a “reliable” source of information concerning instances of exhibited suspicious behaviors?

- A. What will be the clinical training and credentials required of those considered to be “reliable” sources?

What will be consequences brought to bare upon those who bring forth false or inaccurate allegations?

What safeguards will be in place to insure that the procedures associated with the new policy are immune from being used as tools of retaliation or besmirchment?

Will an accusation and false drug/alcohol test be placed in a faculty member’s permanent record in the HR office?