DRUG-FREE SCHOOLS AND COMMUNITIES ACTS AMENDMENT, 1989 (Revised 1997)

Background
On August 16, 1990 the Department of Education printed in the Federal Register final regulations implementing amendments to the Drug-Free Schools and Communities Act that were enacted on December 12, 1989. The amendments were originally proposed by President Bush in September 1989, as part of his National Drug Control Strategy.

The central thrust of the amendments is to require each institution of higher education to certify that it has adopted 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. The effective date of this requirement was October 1, 1990.

Action Plan
1. Annual distribution of the Northwestern College Program in writing to each employee and student (except continuing education) beginning October, 1990.
2. A biennial review of the program to:
   a. determine the program's effectiveness, and to implement changes where necessary; and
   b. ensure that the required disciplinary sanctions are being enforced consistently (reasonably related documents are to be retained for three years).

Northwestern Policy Statement
Northwestern College prohibits the unlawful manufacture, distribution, dispensing, possession or use of illicit drugs and alcohol on or off the Northwestern College property or as part of any of its activities by students. Violators of this policy are subject to immediate dismissal. This expectation is a 12-month prohibition – not just a school year policy.

The purposes of the policy set forth are:
   a. to encourage personal wellness;
   b. to establish and maintain a safe, healthy working environment for all employees and students;
   c. to provide education through prevention;
   d. to act in accordance with the law;
   e. to ensure the reputation of Northwestern College and its employees and students within the community and ministry at large.

Northwestern College Program Components
1. Distribution of materials
   a. Northwestern College statement of prohibition, legal sanctions, health risks, counseling, treatment, rehabilitation, re-entry programs, and disciplinary sanctions;
   b. "Drug Talk" – distributed annually to students;
   c. Information About Alcohol and Other Drugs.

- Much of the information in this handout was prepared by the Minnesota Prevention Resource Center, Minnesota Institute of Public Health, for the Chemical Dependency Program Division, Minnesota Department of Human Resources
- This information speaks to the program requirement to describe the legal sanctions under local, state, or federal law for the unlawful possession, use, or distribution of illicit drugs and alcohol.
- This information speaks to the program requirement to describe the health risks associated with the use of illicit drugs and the abuse of alcohol.

2. Drug and Alcohol Awareness

   Educational components may include:

   a. Chapel presentations;
   b. Testimonials and panel discussion;
   c. Small group discussions;
   d. Challenge to realize that "I am my brother's keeper."

3. Continuing Concern

   The Counseling Services, Human Resources, Student Development, and Health Services serve as places for support, information, and referral to meet the needs of Northwestern students and HR is a resource for employees.

   In the residences, the Resident Directors and the Resident Assistants are trained "front-line" persons to deal with students on a one-on-one basis. The Resident Assistants are instructed to report to their Resident Director any suspicions of drug and alcohol abuse.

4. Treatment

   There are free confidential on-campus counseling services available for students. The service consists of five (5) staff people including a Licensed Psychologist, one Licensed Marriage and Family Therapist, and two Licensed Psychological Practitioners that are also Licensed Professional Counselors. The Counseling Service does not do chemical dependency assessments, but would provide off campus referrals for that. The Services do provide ongoing counseling and support groups as needed. A list of off-campus resources is available for both staff and students in Student Development, Human Resources, Counseling Services, and Health Services.

HEALTH RISKS ASSOCIATED WITH USE/ABUSE OF ALCOHOL AND OTHER DRUGS

ALCOHOL (ethanol, ethyl, booze, cocktails, brew, liquor, juice, drink)

The Facts:

- Alcohol is a drug. It acts as a central nervous system depressant.
- Alcohol is absorbed into the bloodstream through the stomach and the small intestine.

- Alcohol is the psychoactive ingredient in wine, beer, and distilled liquor.
- Several factors influence the effects of alcohol, including the amount of alcohol consumed; the rate at which it is consumed; the presence of food in the stomach during consumption; and the individual's weight, mood, and previous experience with the drug.
- Alcohol can be very damaging when used in large amounts over a long period of time, or when drunk heavily in a short period of time ("binge" drinking).

Possible Signs of Use/Abuse:

- Flushing (skin appears to be reddish)
- Dulling senses
- Staggering
- Double vision
- Unconsciousness
- Dizziness
- Sudden mood changes
- Slurred speech
- Impaired coordination, reflexes, memory, and judgment
- Impaired decision making

Possible Health Risks of Use/Abuse:

- Malnutrition
- Damage to liver, heart, and pancreas
- Death from overdose, injury, or accident
- Addiction/alcoholism
- Irreversible brain or nervous system damage
- For pregnant women: fetal alcohol syndrome (FAS) or fetal alcohol effects (FAE) which many cause miscarriage, premature birth, low birth rates, small size, facial deformation, and mental retardation in newborns.

TOBACCO

Tobacco is used in a variety of ways. It is smoked through pipes, cigars, and cigarettes. Tobacco is also chewed and inhaled in the form of snuff. Nicotine is the active ingredient in all forms of tobacco. Nicotine stimulates the heart and central nervous system. Possible health risks of smoking tobacco include arteriosclerosis, emphysema, chronic bronchitis, heart disease, and lung cancer. Possible health risks of chewing or inhaling tobacco include oral cancer, decreased taste sensation and ability to smell, and dental problems.

MARIJUANA (Cannabis sativa, grass, pot, weed, joint, reefer, Acapulco Gold, smoke, Mary Jane, dope, sisemilla)

The Facts:

- Marijuana is the common name for the hemp plant, Cannabis sativa. A marijuana cigarette (joint) is composed of dried particles from the hemp plant.
- The psychoactive ingredient in the marijuana is tetrahydrocannabinol (THC). The amount of THC in a joint is what affects the user. THC medically as an antinauseant for cancer patients receiving chemotherapy
- Today's marijuana is more potent than the pot of the 1960's.
- Hashish or hashish oil are derivatives from the Cannabis sativa plant and produce similar effects as marijuana.

Possible Signs of Use/Abuse:

- Increased heart and pulse rate
- Bloodshot eyes
- Hallucinations, paranoia, or panic
- Impaired memory
- An altered sense of time
- Decreased concentration, reaction time, and coordination

Possible Health Risks of Use/Abuse:

- Damage to heart and lungs
- Damage to brain nerve cells
- Lung cancer
- Memory disorders
- Psychological dependence
- Interference with psychological maturation
- Temporary loss of fertility in both women and men
- Bronchitis, infections, colds, and other viruses
- For pregnant women: premature birth or low birth weights

COCAINE (coke, snow, toot, white lady, flake, blow, Big C, Snowbirds, lady, nose candy)
The Facts:

- Cocaine is extracted from the leaves of the South American coca plant.
- Cocaine is a white powder that can be inhaled, injected, or smoked (free based).
- In order to extend a seller's supply and profits, cocaine sold on the streets is often mixed with other substances such as sugar, salt, cornstarch, or possibly other drugs. Its unknown purity content increases the dangers of using cocaine.
- Cocaine is an addictive drug.
- Initially, users of cocaine experience a "high," but when the "high" wears off a devastating "low" follows. To avoid this "low," users are often compelled to use more.

Possible Signs of Use/Abuse:

- Euphoria
- Dilated pupils
- Decreased appetite
- Insomnia
- Runny nose
- Violent, erratic, or paranoid behavior
- Sweating
- Anxiety
- Tremors
- Increased blood pressure, heart rate, breathing rate, and body temperature

Possible Health Risks of Use/Abuse:

- Seizures
- Heart and respiratory failure
- Psychosis
- Sexual dysfunction
- Addiction
- Death
- For pregnant women: miscarriage, stillbirths, premature labor or delivery, or hemorrhaging. Cocaine babies may suffer strokes, have malformed kidneys and genitals, and may be at risk for seizures or sudden infant death syndrome (SIDS).

CRACK (rock, readyrock)
The Facts:

- **Crack is a smokeable form of cocaine. It acts as a central nervous system stimulant.**
- **Smoking crack provides intensified cocaine effects because higher doses of the drug reach the brain with more immediacy.**

- **Crack is extremely addictive. The instant "high" crack provides is followed by a "low" that leaves the user craving more.**

Possible Signs of Use/Abuse:

- Euphoria
- Alertness
- Excitability
- Decreased appetite
- Severe coughing
- Black phlegm
- Weight loss
- Insomnia
- Irritability
- Anxiety

Possible Health Risks of Use/Abuse:

- Malnutrition
- Respiratory problems
- Damage to liver and lungs
- Addiction
- Psychosis
- Heart failure
- Coma
- Convulsions
- Death
- Paranoia
- For pregnant women: miscarriages, stillbirths, or premature delivery. Crack babies may suffer from heart failure, have malformed kidneys and genitals, and may be at increased risk for seizures or sudden infant death syndrome (SIDS).

SELECTED LAWS: Alcohol Crimes and Penalties Under Minnesota Law

Minnesota has many statutes which regulate and control the use and abuse of alcohol. In addition to Driving While under the Influence (DWI) laws, Minnesota has laws regulating the sale, purchase, possession, and consumption of alcohol.

I. DWI LAWS.

There are <u>four</u> DWI and Implied Consent packages that aim at preventing the operation of motor vehicles, boats, snowmobiles/all terrain vehicles, and aircraft by inebriated persons.

a. Elements of DWI Offense. Minnesota has one of the most comprehensive DWI statutes in the nation. The elements of the offense may be outlined as follows: It is a crime for any person to drive, operate, or be in physical control of a motor vehicle, within this state or upon the ice of any boundary water of this state, while the person is under the influence of alcohol, a controlled or hazardous substance, or a combination of the two, or the person has an "alcohol concentration" of 0.08 or more.

1. **Driving, Operating, and Physical Control**. The statute does not prohibit only "driving" while under the influence, but extends to "operating" and "physical control" of the motor vehicle. While "driving" normally includes steering a self-propelled vehicle, "operating" includes a broader range of conduct, which includes starting motors, steering towed vehicles, etc. "Physical control" is
broader yet, and applies to any person who places himself or herself in a position to either restrain a vehicle from being moved or to direct its motion including persons found alone, asleep, in a parked vehicle.

2. **Motor Vehicle.** The law applies to any kind of motor vehicle including farm tractors, bulldozers, front-end loaders, mopeds, garden tractors, and riding lawn mowers.

3. **Under the Influence.** "Under the influence" is defined in terms of impaired ability to drive safely. It is not synonymous with an "alcohol concentration" of 0.10 or more. On the contrary, an alcohol concentration of "more than 0.05 and less than 0.10" is relevant evidence of whether or not the person is under the influence of alcohol. In reality, most human beings are visibly impaired at alcohol concentrations well below 0.10. Accordingly, it cannot be assumed that it is "legal" to drive so long as one remains below the 0.10 line.

b. **Criminal Penalties.** Generally, a first offense is a misdemeanor, with a maximum sentence of 90 days in jail and a fine of $700. If the person has a prior "impaired driving conviction" within the previous five years, or two or more prior "impaired driving convictions" within the previous ten years, the crime is a gross misdemeanor, raising the maximum sentence to a year in jail and a fine of $3000. "Impaired driving convictions" include adult convictions and juvenile adjudications.

c. **Driver License Revocations.**

1. **First offense**: not less than 30 days.

2. **Second offense in less than five years**: not less than 90 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed.

After the second offense, subsequent offenses call for longer periods of revocations; and under certain circumstances the registration plates and registration certificates of all motor vehicles registered in the name of any person whose license is revoked may be impounded. Prior juvenile adjudications as a DWI violator count as prior "convictions" for purposes of revocations.

d. **Implied Consent.** The Implied Consent statute provides that by driving a motor vehicle in this state, a person implicitly consents to submit to testing for intoxication. If testing is refused, you may be subject to criminal penalties, and your right to drive will be revoked for a minimum period of one year. If a test is taken and the results indicate that you are under the influence of alcohol or a controlled substance, you will be subject to criminal penalties, and your right to drive may be revoked for a minimum period of 90 days.

II. LIQUOR CONTROL VIOLATIONS, PERSONS UNDER THE AGE OF 21 YEARS.

a. **Consumption.** It is a misdemeanor for any liquor licensee (such as a bar or restaurant) to permit any person under the age of 21 to consume alcoholic beverages on the premises. It is a misdemeanor for any person under the age of 21 years to consume any alcoholic beverages unless that person is in his parents'/guardians' home and with their permission.

b. Purchasing.

1. It is a gross misdemeanor for any person to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age; except for the rights of parents/guardians as outlined under consumption.

2. It is a misdemeanor for any person under the age of 21 years to purchase or attempt to purchase any alcoholic beverage.

3. It is a gross misdemeanor for any person to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or permit the use of a driver's license, permit, Minnesota identification card, or other form of identification, to a person under the age of 21 for the purpose of purchasing or attempting to purchase an alcoholic beverage.

c. Possession. It is a misdemeanor for any person under the age of 21 years to possess any alcoholic beverage with the intent to consume it any place other than the household of person's parent or guardian. Mere possession at any place other than the home of the person's parent or guardian is prima facie evidence of an intent to consume.

d. Entering Licensed Premises. Persons under the age of 21 years may not enter any licensed premises for the purpose of purchasing, being served or delivered, any alcoholic beverage.

e. Misrepresenting Age. It is a misdemeanor for any person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

f. Proof of Age. Proof of age must be established by a valid driver's license, Minnesota identification card or, in the case of a foreign national, by a valid passport.

g. Driver License Suspensions for Illegal Purchase of Alcohol. The Commissioner of Public Safety shall impose a 90-day suspension of driving privileges of any person (a) who is under the age of 21 years <u>and</u> is convicted of purchasing or attempting to purchase an alcoholic beverage if the person used a driver's license, permit, or Minnesota identification card in making the purchase or attempted purchase or (b) who lends a driver's license to someone under 21 to use to purchase alcoholic beverages.

III. SOCIAL HOST LIABILITY

Anyone over 21 who knowingly serves alcohol to someone under 21 may be held civilly liable for any damages subsequently caused by the person under 21.

<u>FEDERAL PENALTIES</u> and <u>SANCTIONS</u> for Illegal possession of a Controlled Substance

<u>21 USC 844</u> (a) 1st conviction: Up to 1 year imprisonment and fined at least $1000 but not more than $100,000 or both. (b) After 1 prior drug conviction: At least 15 days in prison not to exceed 2 years and fined at least $2,500 but not more than $250,000 or both. (c) After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fined at least $5,000 but not more than $250,000 or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to $250,000 or both if: (a) 1st conviction and the amount of crack possessed exceeds 5 grams, (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams, (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

21 USC 853A2 AND 881A7 Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment.

21 USC 881A4 Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport of conceal substance.

21 USC 884A Civil fine of up to $10,000 (pending adoption of final regulation).

21 USC 853A Denial of Federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.

18 USC 922G Ineligible to receive or purchase a firearm.

MISCELLANEOUS Revocation of certain Federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc. are vested within the authorities of individual Federal agencies.

CONTROLLED SUBSTANCES CRIMES AND PENALTIES UNDER MINNESOTA LAW

This chart shows the degrees of drug crimes in Minnesota and the sentencing limits for each degree as set by the Minnesota legislature in 1989 and amended in 1990. The "guidelines" listed for each degree refer to the lengths of time that a person convicted of an offense at that degree would serve in prison. These guidelines are set by the Minnesota Sentencing Guidelines Commission. The actual length of sentence is determined by the defendant's criminal history. For instance, a person convicted of a second-degree drug offense who has no prior convictions will get a shorter sentence than another person also convicted of a second-degree drug offense who happens to have a prior record. In addition, pursuant to 1989 legislation, a judge may increase a sentence if the drug offense took place in a school zone or a park zone.

If the guidelines call for probation, the defendant can be sentenced to serve up to 12 months in the local jail or workhouse.

FIRST DEGREE: **Sale:** 10 grams crack, 50 grams cocaine/heroin/methamphetamine, 200 doses hallucinogen, 50 kilos marijuana. **Possession**: 25 grams crack, 500 grams cocaine/heroin methamphetamine, 500 doses hallucinogen, 100 kilos marijuana. **Penalty:** 0-30 yrs. 4 yr mandatory minimum if prior drug felony; up to $1 million fine. **Guidelines:** 86 to 146 months.

SECOND DEGREE: Sale: 3 grams crack, 10 grams cocaine/heroin/methamphetamine, 50 doses hallucinogen, 25 kilos marijuana, or sale of any Schedule I or II narcotic drug either to a person under 18 or in a school zone or park zone.
Possession: 6 grams crack, 50 grams cocaine/heroin/methamphetamine, 100 doses hallucinogen, 50 kilos marijuana.
Penalty: 0-25 yrs. 3 yr minimum if prior drug felony; up to $500,000 fine. **Guidelines:** 48 to 98 months.

THIRD DEGREE: Sale: Crack/cocaine/heroin, 10 doses hallucinogen, 5 kilos marijuana, or sale of any Schedule I, II, or III drug (except a Schedule I or II narcotic drug or marijuana) to a person under 18 to sell same. **Possession:** 3 grams crack, 10 grams

cocaine/heroin/methamphetamine, 10 kilos marijuana and any amount of a Schedule I or II narcotic drug in a school zone or park zone. **Penalty:** 0-20 yrs, 2 yr mandatory minimum if prior drug felony; up to $250,000 fine.
Guidelines: For possession of crack and cocaine, 48 to 98 months; for all other third degree offenses, probation to 54 months.

FOURTH DEGREE: Sale: Any Schedule I, II, or III drug (except marijuana), or sale of marijuana or any Schedule IV or V drug to person under 18. **Possession:** 10 doses hallucinogen.
Penalty: 0-15 yrs, 1 yr mandatory minimum if prior drug felony; up to $100,000 fine.
Guidelines: Probation to 32 months.

FIFTH DEGREE: **Sale:** Marijuana, or any Schedule IV drug. **Possession:** All Schedule I, II, III, or IV drugs except 1.5 ounces (42.5 grams) or less of marijuana. **Penalty:** 0-5 yrs, 6-month mandatory minimum if prior drug felony; up to $10,000 fine. **Guidelines:** Probation

Possession of 1.5 ounces (42.5 grams) or less of marijuana is a petty misdemeanor punishable by a fine of up to $200 and required attendance at an approved drug education program. Failure to comply with those sanctions or a second conviction within two years constitutes a misdemeanor. Possession of more than 1.4 grams of marijuana in an automobile continues to be a misdemeanor under Minnesota law.

In addition to charging offenders with possession and sale crimes, Minnesota prosecutors can charge drug offenders with, depending on the circumstances: (1) failure to purchase drug tax stamps from the State Commissioner of Revenue; (2) money laundering, if the person conducted a financial transaction with money that he knew was the proceeds of a felony drug crime; and (3) racketeering, under which a dealer can be fined up to three times his gross profits.

SELECTED ALCOHOL AND DRUG ORDINANCES IN MINNEAPOLIS
The city of Minneapolis has many ordinances regulating and controlling the use and abuse of alcohol and other substances. The following laws are listed to highlight the consuming in public and the city drug ordinances.

364.40 CONSUMING IN PUBLIC. No person shall consume intoxicating liquor as defined by Minnesota Statutes, Section 340.07, Subdivision 2, or nonintoxicating malt liquor as defined by Minnesota Statutes, Section 240.001, Subdivision 2, while (1) on a public street, highway alley, sidewalk, boulevard, or any place frequented by the public; (2) on any private property without the consent of the owner of such property; and (3) while in a vehicle upon a public highway. This section shall not prohibit the consumption of such beverages as duly licensed on-sale premises, or if otherwise authorized by law. (Code 1960, As Amended 853.030; 80-Or-268-1, 11-14-80)

223.70 UNLAWFUL POSSESSION, SALE, DISTRIBUTION. It is unlawful for any person to have in his or her possession, or to sell, give away, barter, exchange or distribute any of the drugs specified in section 223.60 hereof, or any marijuana or narcotic drug, as defined in Section 152.01, Subdivision 9 and 10 of Minnesota Statutes, or any controlled substance as defined in Section 152.02, Subdivisions 2,3,4,5 and 6 of Minnesota Statutes, except on a written or oral prescription by a practitioner lawfully authorized to practice his or her profession. (Code 1960, As Amend., 758.020; 76-Or-183, 1, 10-29-76; 79-Or-108, 2, 5-25-79)