

POLICY ON ALCOHOL, DRUG AND SUBSTANCE ABUSE

FIRST CONCEPT: 29 OCTOBER 2019

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| Type of Document: | Policy |
| Purpose: | To communicate a broad commitment to a healthy university community marked by standards that reflect personal accountability and responsibility for the common good; demonstrate regard for the safety, security and health of others; and maintain the atmosphere needed for study and reflection. |
| Approved by: | Stellenbosch University Council |
| Date of Approval: | 2020 |
| Date of Implementation: | Protocol implementation by 1 January 2021 Policy implementation by 1 October 2020 |
| Date of Next Revision: | Every five years, or sooner if circumstances so dictate, or as deemed necessary by the owners of the policy |
| Date of Previous Revision(s): | None (new policy) |
| Policy Owner¹: | Vice-Rector: Learning and Teaching, and Vice-Rector: Social Impact, Transformation and Personnel (joint ownership) |
| Policy Curator²: | Senior Director: Student Affairs and Chief Director: Human Resources (joint curatorship) |
| Keywords: | |
| Validity: | In case of any discrepancies or differences about interpretation between the English text of this policy and its Afrikaans translation, the English version must prevail as the legally binding formulation. |

¹ Policy Owner: Head(s) of Responsibility Centre(s) in which the policy functions.

² Policy Curator: Administrative head of the division responsible for the implementation and maintenance of the policy

1. ESSENCE OF POLICY

1.1 Stellenbosch University (SU)'s policy on alcohol, drug and substance abuse supports the healthy social aspects of the use of substances that enhances individual, community and institutional well-being. At the same time the policy aims to steer behaviour away from the negative effects of the use on the individual and the community.

1.2 SU recognizes that alcohol plays a significant role in social affairs. SU also recognizes that the use of alcohol carries the risk of detrimental health of the individual and the well-being of the community. This is true of repeated use of alcohol that has health consequences and the use of alcohol that impairs sound judgment and on occasion leads to severe consequences. For example, the university community are seriously disrupted when racist, sexist or homophobic instances take place regardless of whether the actor was under the influence of alcohol or not or where such inferences are made because the interpreter of the event is not of sound judgement.

1.3 The Policy on alcohol, drug and substance abuse reflects the ideal of personal responsibility and mutual respect within the diverse community of students and staff at SU.

1.4 The University recognizes the right of every individual to a voluntary and informed choice to consume alcoholic beverages, in accordance with applicable national, provincial and local legislation, and existing University directives. However, the University acknowledges that the use of alcohol stems from a complex relationship between social norms, individual decisions, world views, personal motivation and other influences. Thus the applicable legislation and directives are not enough to reach the aims of the alcohol policy. It is also necessary to apply the insights of behavioural science to reach the aims of the alcohol policy.

1.5 In this regard SU creates a temporary office for research on the patterns of use of alcohol, drugs and substances and the insights of behavioural science to influence the use in accordance with the aims of the policy.

1.6 A SU policy on alcohol, drug and substance abuse is therefore necessary for the following reasons:

- 1.6.1 it enables SU to create awareness of the harmful effects of alcohol, drugs and substances
- 1.6.2 it reduces absenteeism and ultimately reduces the medical burden on the university
- 1.6.3 it helps those affected by alcohol, drugs and substances by providing structures and procedures, as well as encouraging treatment
- 1.6.4 a written policy assists the university in outlining the rules and managing cases arising from alcohol, drugs and substances through early detection and intervention
- 1.6.5 to promote a culture that discourages alcohol, drugs and substances at the university

2. INTRODUCTION

3. SCOPE OF THE POLICY

- 3.1 The scope of the policy is to guide all policy and procedural documents and principles that relate to alcohol, drug and substance use and abuse at SU.
- 3.2 The policy applies to all staff, students and any other person or entity engaging in any activity on any property under the University's jurisdiction or any University-related activity. (UD)

3.3 This policy further applies wherever substance use and abuse might impact negatively on the University or its staff, students or any other person or entity, and when and wherever any behaviour relating to substance use and abuse or the publication and reporting thereof might have a negative impact on or possess a reasonable potential to harm a fellow student or staff member of the University or any other person or entity, or on the University's reputation. (UD)

4. POLICY PRINCIPLES

4.1 **Recognition of alcohol, drugs and substance use as an institutional concern**

4.2 **Commitment and responsibility of management** to addressing alcohol, drugs and substance use, by establishing the appropriate structures to address the problem; whilst maintaining strict confidentiality at all times. In addition, there shall be no stigmatisation, discrimination or exclusion against any affected individual, or anyone related to them, on the basis of real or perceived alcohol, drugs and substance use.

4.3 Alcohol, drugs and substance use is **preventable by developing student-led prevention programmes** to promote healthy and responsible behaviour. The university will encourage, facilitate and support regular forums between staff and student stakeholder communities for the purpose of prevention and management of alcohol, drugs and substance use issues.

4.4 **Provision of a safe, healthy learning, work and living environment, as well as access to care, treatment and support**

4.5 **Partnerships and collaboration development** internally and externally in order to enhance success of policy development and implementation.

4.6 **Grievance and concern processes** allow for effective communication channels for all stakeholders to raise issues related to alcohol, drugs and substance use

4.7 **Observe fair universal labour practices** across the board

5. Policy Guidelines

Cases on campus identified as being affected by alcohol, drugs and substance use should ideally self-report, or alternatively be reported to relevant authorities identified for the purpose of initial identification and initiation of treatment, viz. Campus Health Services, Centre for Student Counselling and Development, or the Employee Assistance Programme

5.1 Raising awareness

- Through appropriate forums eg. Publicity campaigns, sports events, workshops, etc
- Informational communications, eg fliers, posters, booklets, social media outlets
- Peer-led and recovering individual-led initiatives

5.2 Training and Development

- Awareness and education to all staff and students to recognize “early warning signs” and to know how to respond to these appropriately.
- Engage in research and other knowledge dissemination initiatives

5.3 Intervention

- The university will offer support to anyone who suspects or recognizes that they have an alcohol, drug and substance use problem
- It will also encourage action by students or staff who wish to help those individuals
- All actions decided upon in substance use cases will be with the implicit verbal and/ or written consent of the affected individual

5.4 Rehabilitation

- Substance use problems are treatable.
- As indicated above, confidential services will initially be available for assessment and treatment through on-campus preferred health providers, subject to prevailing university policy. At this stage, reasonable time off may be provided, pending initial evaluation.
- Upon return to work or study activities, aftercare plans and follow up programmes will be agreed upon and implemented, in order to reduce relapse rates.

- Where relapses do occur, appropriate support will be provided where necessary
- If, however, the severity and frequency of relapses reach unacceptable levels, the university reserves the right to invoke alternative action, which may include suspension or dismissal
- **Process** = early identification > action (HR manager/ registrar) > referral to provider for assessment and counselling > rehabilitation > follow up and support

5.5 Misconduct

- No employee or student shall use alcohol, drug and substance use as a reason for failing to perform work duties, to complete assignments, attend classes or to write examinations
- Distinction shall be made between harmful behavior resulting from overindulgence (no dependence) – treated as a conduct problem, vs chronic and persistent dependence characteristics – treated as an ill-health issue
- Each case will be considered on merit and the university will endeavor to act reasonably in each instance

6. POLICY OBJECTIVES AND PROVISIONS

6.1 The university understands that the use of chemical substances is a complex issue. There are two different aspects of the policy and the plan that needs separate focus. There is the issue of decisions made in good judgement and secondly there are the issues of longer term health implications. There are different strategies for the two focus areas.

6.1.1 Decisions made in state of good judgement

We have learnt that rules and directives are not sufficient to create the desired behaviour. Therefore the plan of action involves research, positive influence of behaviour through the insights of behavioural science and the application of rules and directives to create the environment where the use of alcohol moves closer to the desired behaviour.

Through the insight from behavioural science the university learnt that well-intentioned

interventions might have the opposite effect as to what was intended. In this regard the promotion of “responsible use of alcohol” without a definitive measure leads to more irresponsible use. In ambiguous situations persons look around to the environment for clues how to behave. Where the general social norm is already beyond what constitutes responsible use of alcohol that is the norm that will be adopted when the intervention is to promote responsible use without a definitive measure.

In this regard the intervention of social norming is promising and needs to be pursued.

6.1.2 Health effects of alcohol use

In this regard the tools for self-recognition, the intervention of professional help and the co-operation of various environments most notably Campus Health, the Centre for Student Counselling and Development, Student Discipline and the Centre for Student Communities is important.

6.2 Policy application on campus

This policy aspect provides the guidelines and principles which determine how student, faculty and PASS environments will manage alcohol, drug and substance use preventative, curative and rehabilitative strategies on all SU campuses. However, the policy also caters for the provision of more specific strategies as determined by pre-defined (often legislative) requirements within a specific department.

Eg Faculty of Medicine and Health Sciences (FAMHS)

- See relevant addendum (**Dealing with Health Sciences Students with Alleged Substance Use Problems**)



FAMHS.docx

6.3 Substance use in the workplace

- SU seeks to establish and maintain a work environment free from the adverse effects of substances, alcohol and other drugs (including prescription medications). The productivity of the work force could be undermined by the effects of chemical

substances. Furthermore, the employees of SU have the right to work in an environment free of substance abuse and with persons free from the effects of substance abuse.

- In terms of the General Safety Regulation 2A of the Occupational Health and Safety Act, of 1993, an employer must not permit any person under the influence of substances, alcohol and other drugs (including prescription medications) to enter the workplace or remain at the workplace. The University endeavours to comply with this law.
- **“Under the influence”** means “intoxication” as defined in the General Safety Regulations contained in the Occupational Health and Safety Act, Regulation 2A.
 1. *Subject to the provisions of sub- regulation (3) an employer shall not permit any person who is or who appears to be under the influence of intoxicating liquor or drugs, to enter or remain at the workplace.*
 2. *Subject to the provisions of sub- regulation (3) no person at a workplace shall be under the influence of or have in his possession or partake of or offer any other person intoxicating liquor or drugs.*
 3. *An employer shall, in the case where a person is taking medicines, only allow such person to perform duties at the workplace, if the side-effects of such medicine do not constitute a threat to the health or safety of the person concerned or other persons at such workplace.*

Proof shall be regarded as sufficient if any positive result from either objective chemical tests (e.g. breathalyser or urine), or subjective personal observation of typical symptoms of under the influence (e.g. smell, eyes, speech, coordination, mental alertness etc.), both subjective and objective tests, are observed.

Objectives: - To enhance employee well-being, safety, health and productivity at work

- To minimize/eliminate the abuse of substances, alcohol and other drugs (including prescription medications) amongst employees and to assist, where possible, in the rehabilitation of those who have a substance use problem.
- To maintain discipline and ensure substantive and procedural fairness in the handling of substance abuse cases.

The policy is based on the following principles:

- ***Non discrimination*** – SU will take active steps in promoting non-discrimination. It will ensure that no employee or prospective employee living with a substance abuse problem is unfairly discriminated against in any employment policy or practice..
An employee who relapses after treatment will have his/her case carefully considered by an expert in the field of substance abuse or equivalent (see Policy Guidelines above)
- ***Safety in the workplace*** – SU will aim to create an alcohol and drug-free environment. It will take responsibility for managing the negative impact of alcohol and other drugs in the workplace, as well as endeavor to prevent any person who is under the influence of alcohol or other drugs from entering the workplace. It will also deal with continued unacceptable behaviour and standards of work with the appropriate disciplinary action.
- ***Confidentiality*** – SU shall ensure that any information about the drug abuse will be dealt with in the strictest of confidence

Prohibited acts

- The consumption of and the possession without permission of any intoxicating substance, excluding prescription medication and then only when certified by a medical practitioner, is prohibited by the provision of this Policy.
- No employee with a Blood Alcohol Concentration above 0,05g/100ml may be allowed to commence or continue with his/her work.
- No employee is allowed to drive a University vehicle, operate any machinery, maintain/repair vehicles and/or machinery or perform any duty after consumption of any intoxicating substance.
- No substances are allowed on the premises of the University. The only exception is where the medicines were supplied to the employee on prescription by a registered medical practitioner and are taken in accordance with the prescription.
- The University will only allow employees taking such medicines to perform duties at the workplace if the side-effects of such medicines do not constitute a threat to the health or safety of the employee concerned or other persons at such workplace.
- Any employee found to be under the influence of drugs may not enter or remain on the premises of the University and is liable for disciplinary action.

Guidelines on TESTING for alcohol, drugs and substance use at work:

- Only SU officials who have been duly authorized/delegated should carry out testing (viz. Campus Health Service, Campus Security).
- Where there is a reasonable suspicion that an employee is under the influence of an intoxicating substance, a test may be carried out. Should an employee be found to be intoxicated, such employee must be instructed to leave the workplace/premises and the disciplinary process must be invoked.
- Where an employee unreasonably refuses to consent to any form of recognised, acknowledged testing it could lead to the conclusion that he/she is under the influence of an intoxicating substance and suspension and disciplinary action may follow.
- Where there is suspicion that an employee is dependent on the use of drugs, testing must be undertaken by a registered medical practitioner, who is a member of Campus Health Services. Any incidence which occurs after hours, must be referred to the appropriate medical facility.
- Before an employee is tested, an explanation must be given as to why the testing needs to be done and also the consequences of a positive test must be explained.
- Testing must take place under specific circumstances and when certain behaviour is displayed. In such instances it is required that two employees, of whom one is a Line Manager, have to agree on the condition of the suspected employee.
- A behavioural and physical characteristics checklist is provided to assist supervisors to identify employees who are suspected to be under the influence of an intoxicating substance. (Refer to attachment below).
- Testing for the abuse of substances may be done immediately following an incident e.g. accident or found drinking or in possession of alcohol
- An employee identified to be intoxicated must be immediately suspended for the remainder of his/her working day as unfit to perform duties safely, in accordance with the Occupational Health and Safety Act, with the instruction that he/she should report for duty the following day and the disciplinary procedure must apply accordingly.

Testing

- ***Clinical observation*** - *clinical observation shall be used in identifying cases of intoxication, making use of physical characteristics which may be indicative of intoxication such as: staggering gait, smell of alcohol on breath, red eyes, hand tremors and uncharacteristic behaviour. (See attachment)*



ANNEXURE A.docx

- **Breathalyser** - Once clinical observation have been made and recorded, or the employee requests it, a breathalyser test may be used on the employee in the presence of representatives of both the employee and employer. SU will provide appropriate training to Managers, Security officers and health and safety representatives and others deemed appropriate, so that they may conduct breathalyser testing. SU considers the use of a breathalyser without the employee's permission as a violation of the employee's right to privacy and human dignity.
- **Blood and urine testing** - SU reserves the right to conduct blood and urine tests by referring the employee to an appropriate medical facility with the consent of the employee and providing the employee can be taken to such a facility. Should an employee refuse to take a blood and urine test he/she must give reasons for refusal

Discipline

- The fact of each case will determine the appropriate penalty and will be addressed in accordance with the disciplinary procedures of the University.
- An employee who voluntarily identifies him/herself as possibly being under the influence of alcohol or drugs, or who manifests with signs and symptoms of being under the influence of alcohol or drugs, prior to commencing work and who is found to be under the influence of alcohol or any other substance at this time or any other time during the course of duty time, will be sent home for the day
- On return to work, disciplinary procedures must commence (Refer to SU Disciplinary code).
- When disciplinary steps are taken, the disciplinary procedure must allow consideration for the individual to seek professional assistance for his/her rehabilitation for the substance abuse.

Rehabilitation programmes

- The SU Wellness / EAP Programme offers confidential counselling services to employees.
- The Employee Assistance Programme is available to employees for substance abuse education, counselling and referral for rehabilitation.
- Employees with drug and alcohol problems are encouraged to seek counselling assistance. Management is encouraged to assist employees seeking such counselling.

- At the discretion of management, an employee may be granted leave from work to participate in rehabilitation programmes for treatment of alcohol and other drug problems.
- For any intervention where internal resources are utilized, the cost may be covered by the university. If and when outside resources are utilized, each case must be handled on merit and at the discretion of the department concerned. (With the necessary guidance and consultation with the Wellness office).
- Failure to comply with, or respond to rehabilitation may result in either dismissal for incapacity due to ill-health or disciplinary action.

Confidentiality and maintenance of records

- All information regarding an individual's participation in the rehabilitation programme is considered confidential, and will not be disclosed to anyone nor made part of the official personnel file without the consent of the individual concerned.
- Information obtained during the counselling intervention cannot be used during the disciplinary hearing or be regarded as evidence for extenuating circumstances

6.4 Smoking on SU campus

- ***Aim of the policy:*** - provide employees, student and visitors with a healthy and efficient working and learning environment;
 - discourage the use of tobacco products;
 - encourage a smoke-free lifestyle to students and staff; and
 - ensure compliance with prescribed legislation and the provisions of this policy
- Legislation in the form of the ***Tobacco Products Control Act*** 83 of 1993 has been promulgated to regulate smoking in public spaces, including the workplace. In compliance with this law and its regulations, it is the policy of SU that smoking is prohibited in all public areas, including all workspaces of SU. Smoking is however permissible in areas designated as "Smoking Areas" by SU, at its discretion.
- It is further noted that the University has a duty under the Occupational Health and Safety Act 1993, to provide a safe working environment and to protect the health of all employees from illness and injury arising in the workplace.

- ***The Cancer Association of South Africa (CANSA) has put out numerous position statements*** (CANSA: Position Statement on Tobacco Products, Nov 2015: Prepared by Prof Michael C Herbst, approved by Ms E Joubert, CEO) with regard to tobacco and related tobacco products, viz:

- CANSA believes that smoking of tobacco is a health hazard and is the single most preventable cause of many deaths and diseases

- CANSA acknowledges nicotine to be the primary reinforcer of smoking, and exposure to the various harmful contaminants of cigarette smoke to be the cause of most of smoking related diseases and, therefore, calls on smokers to obtain help to stop smoking.

- CANSA believes that there is sufficient evidence of the harmful effects of snuff to call on users to stop using this harmful substance in the interest of their own health. The use of chewing tobacco is also fraught with danger and is harmful to health. It should therefore also be avoided.

There is sufficient evidence of the dangers and harm to human health of hookah smoke to advise individuals to avoid it and to not experiment with this form of smoking.

- CANSA supports the regulation of e-cigarettes similar to the regulations that apply to ordinary tobacco products. It also supports a total ban on the use of e-cigarettes indoors, unless it can be proven that ‘vaping’ may be harmless to bystanders. CANSA further would like to see a ban on the sale of e-Cigarettes to minors and would like to see the same advertising regulations that apply to tobacco products, be applied to e-cigarettes.

- ***SU therefore advocates for a NO TOBACCO USE policy on all campuses, to achieve a 100% indoor and outdoor campus-wide tobacco-free environment. SU should strive towards becoming or maintaining tobacco-free living and learning environments, which support the achievement of personal and academic goals.***

- This SU Tobacco Policy should be advocated in accordance with recommendations provided by the ***American Campus Health Association Guidelines on Tobacco use on University Campuses***, (ACHA Guidelines: Position Statement on Tobacco on College and University Campuses, Nov 2011; www.acha.org) as follows:

1. **strongly worded tobacco policy** should be developed, that reflects the best practices in tobacco prevention, cessation, and control, and to include:

- Tobacco is defined as all tobacco-derived or containing products, including, but not limited to, cigarettes, electronic cigarettes, cigars and cigarillos, hookah-smoked products, and oral tobacco (spit, chew, snuff).

- Tobacco use is prohibited on all university grounds, university owned or leased properties, and in campus-owned, leased, or rented vehicles.

- All tobacco industry promotions, advertising, marketing, and distribution are prohibited on campus properties.
- The sale and sampling of tobacco products and tobacco-related merchandise (including logo-containing items) is prohibited on all university property and at university-sponsored events, regardless of the operating vendor.
- Tobacco industry and related company sponsorship of athletic events and athletes is prohibited.
- The university does not permit tobacco companies on campus to conduct student recruitment or employment activities.
- The university does not accept any direct or indirect funding from tobacco companies.
- The campus promotes cessation services/resources for all members of the university community.

2. Inform all members of the campus community by **widely distributing the campus tobacco policy on an annual basis**. The tobacco policy is clearly posted in employee and student handbooks, on the university website, and in other relevant publications. Key components of the policy are also shared with parents, alumni/ae, and visitors. The general policy should be included in prospective student materials in both printed and electronic formats.

3. Offer and **promote prevention and education initiatives that actively support non-use and address the risks of all forms of tobacco use**.

4. Offer and **promote programs and services** that include practical, evidence- and theory-informed approaches **to end tobacco use**, including screenings through health and counselling services, tobacco-cessation counselling, and other medical options on campus.

5. Provide a **comprehensive marketing and signage effort** to ensure that all university visitors, vendors, guests, and others arriving on property owned or leased by the institution are aware of the tobacco-free policy.

6. Plan, maintain, and support effective and timely implementation, administration, and **consistent enforcement of all university tobacco-related policies**, rules, regulations, and practices. Provide a well-publicized reporting system for violations.

7. **Collaborate with local, and national public health entities** and tobacco prevention and control public, private, and national non-profit tobacco-related organizations in support of maintaining a healthy tobacco-free environment.

8. **Develop and maintain a tobacco task force on campus** to identify and address needs and concerns related to tobacco policy, compliance, enforcement, and cessation. **Key stakeholders** to include:

- a. Undergraduate and graduate students (particularly from student-elected/ representative organizations)
- b. Health and counselling centre professionals
- c. Faculty (including faculty senate or other faculty governing bodies)
- d. Residence life/housing
- e. Judicial affairs
- f. Campus safety/security services
- g. Human resources
- h. Neighbourhood liaisons
- i. Other important stakeholders specific to the campus

- This ***policy will apply to:***
 - all employees, students, mandataries and other persons visiting SU property;
 - all buildings, corridors, lobbies, stairwells, elevators, cafeterias, washrooms, toilets or any other common areas frequented by employees and students;
 - all SU property, which include all facilities owned or leased by SU including sports fields, residential property, conveyance systems, lecture venues, shopping centres, workshops, machine rooms, ablutions, gardens and walkways.; and
 - all SU facilities and vehicles, whether owned or leased, regardless of location.
- ***“Designated smoking areas”:*** - must be clearly marked as such and it must be properly ventilated.
 - The number, location and distribution of designated areas will be determined solely by SU.
 - Protection Services shall inform all visitors about the policy, the designated smoking areas as well as the disposal of litter
- ***Disciplinary Measures:*** - Failure to comply with the legislation and this policy will be viewed in a serious light, which may result in disciplinary action being taken against the offender.
 - ***Staff:*** as per the SU Disciplinary Code and Procedure.
 - ***Students:*** - as per the SU Student Code of Conduct.
- ***Support and Rehabilitation:*** - Basic counselling, advice and smoking cessation programmes may be offered upon request to staff and students who wish to stop smoking, obtainable from medical practitioners at CHS, supported by CSCD

6.5 Cannabis Policy at SU

The SA Society of Psychiatrists (SASOP) Position Statement on Cannabis (Dec 2017) cites the South African Community Epidemiology Network on Drug Use (SACENDU) reports that, during the 2nd half of 2016, cannabis was the most common primary substance of abuse for persons younger than 20 years presenting to treatment facilities in all areas across South Africa, except for the Free State, Northern Cape and North West. They, in addition, add that it is estimated that 1 in 6 teenagers who experiment with cannabis will become addicted to it (Volkow et al, 2014). Amongst other recommendations, they provide the following advice in the Position Statement:

- 1) SASOP concurs with the Central Drug Authority (CDA) of South Africa that the approaches to combat the use and abuse of psychoactive substances should include harm reduction (interventions aimed at reducing the harmful consequences associated with substance use), supply reduction and demand reduction/preventative strategies (Stein, 2016).
- 2) SASOP agrees with the CDA that there is currently insufficient evidence to predict the long-term consequences of the legalization of cannabis.
- 3) Available evidence does not support the strong positive public opinion and anecdotal reports favouring medicinal cannabis, except for its demonstrated benefits for chronic pain, spasticity due to Multiple Sclerosis and weight loss associated with HIV (Whiting et al, 2015). Good quality evidence does however exist regarding the frequently occurring side-effects of cannabis such as confusion, dizziness, diarrhea, euphoria, fatigue and hallucinations (Whiting et al, 2015). Any potential benefit obtained from cannabis must therefore be weighed against its risk of causing addiction, psychosis, cognitive impairments and a 2.6 times greater likelihood of motor vehicle accidents (Li et al, 2012).
- 4) SASOP commends the Medical Control Council's decision to limit the use of cannabis for medicinal purposes to registered prescribers and for individuals in which an acceptable justification is provided.

Given the above Statement, SU notes with concern the Sept 2018 Constitutional Court ruling which allows the use, possession and cultivation of cannabis *in private* by adults. The induction of the current SU Substance Use policy notes that the Constitutional Court has consequentially given Parliament a period of 24 months to correct constitutional defects in legislation, which previously criminalised the use, possession and cultivation of cannabis.

Notwithstanding the above, the judgment does confirm continued prohibition of the following:

- ***The use or smoking of cannabis in public (openly), and***

- *The purchasing, selling or dealing in cannabis.*

Application of the cannabis judgment to SU staff:

(This note supplements a previous note provided by Felicia van Rooi from Student Discipline at Legal Services on 19 September 2018, as guidance on the effect of the Constitutional Court’s cannabis judgment)

As stated above, the use of cannabis by SU staff on campus, which constitutes the workplace, remains prohibited in terms of the applicable legislation.

It can be expected that no area of SU campus can be considered as “private” (as is contemplated in the cannabis judgment), for staff to use, possess or cultivate cannabis. Staff who reside in private dwellings on SU property remain subjected to the terms and conditions of use of the lease/ other agreement concluded with SU.

SU furthermore regulates the use of drugs and alcohol abuse in its “*Disciplinary Code: rules regarding Disciplinary Action against Staff Members*” (the “**Staff Disciplinary Code**”) – see section 6.3 above (Substance Use in the Workplace)

Application of the cannabis judgment to SU students:

SU recognises the risks that may be caused by the misuse of cannabis specifically (see SASOP Statement above).

SU students are, in terms of S36 of the Higher Education Act, subject to SU’s disciplinary measures and procedures, as determined by its Student Disciplinary Code.

As is applicable to SU staff, the use, possession or cultivation of cannabis, in any form, by SU students on campus is not allowed.

Whilst the rooms that are provided to students in SU’s residences, may be considered as “private”, as contemplated in terms of the cannabis judgment, the residences and rooms are however provided by SU to students who voluntarily subject themselves to the applicable Student Disciplinary Code and the rules governing the Residences and their accommodation in it, for the duration of their studies.

At this stage, there is no need to amend the Student Disciplinary Code”, as it is subject to the relevant rules and policies which requires amendments to prohibit the use and possession of cannabis (in any form whatsoever and its cultivation).

Exceptions regarding medicinal cannabis:

Under exceptional circumstances, SU *may* accommodate staff or students who require the use of medicinal cannabis to treat medical conditions (see SASOP Position Statement above). It is recommended that a staff or student’s request to use medicinal cannabis on campus be supported by a full written motivation supplied by a specialist medical practitioner, experienced

in the use of cannabis, and that the use thereof be authorised by an appropriate functionary (viz. a medical practitioner working at Campus Health Services).

SU, in exercising its duty to ensure the safety of its campus, will take reasonable precautions by prohibiting impairment of staff or students on campus. The Disciplinary Code for staff and students should include the stipulation that prescriptions for medicinal cannabis do not entitle staff or students:

- To appear intoxicated or impaired on campus;
- To be used as an excuse for absences or late arrivals;
- To compromise the staff or student's safety, or the safety of others;
- To disrupt the academic programme; and
- Other related actions to be considered in the review of the applicable policies and rules.

In conclusion, whilst we wait for SA Parliament to adjust current legislation, SU would like to clarify its stance on current cannabis use by issuing the following:

- No staff member or student may consume, smoke, distribute, purchase, sell or have in his/her possession cannabis, while present on university or university-controlled premises, or at a university-related function or activity, or at any location or in circumstances where he or she represents the university or where he/she is identified as a staff member or student of the university;
- University staff and students are prohibited from possessing, consuming, cultivating or smoking cannabis on the SU premises, at the university residences or university-controlled premises
- SU commits to assisting any staff member or student who voluntarily seeks help in dealing with harmful behaviours and/or detrimental medical conditions, as a result of acute intoxication or chronic dependence related to cannabis use. This can be achieved via self-reporting to the relevant HR structures/ Centre for Student Counselling and Development/ Campus Health Services.
- SU also commits to providing campus-wide, evidence-based and inclusive health education and preventative strategies to create a campus free of cannabis use.

6.6 Substance use in Sport

SU supports the South African Institute for Drug-free Sport (SAIDS) and the World Anti-doping Association's (WADA) Code. Towards the promotion of fairness and athlete medical safety in sports, SU supports the principle of maintaining the Spirit of Fair Play in Sport.

Medically justifiable usage of medication within the protocols of therapeutic use exemptions is condoned. SU does not condone the use of prohibited substances or methods (wittingly or unwittingly) by any athlete. We also will not condone the trafficking or attempted trafficking in any prohibited substance or prohibited method by any athlete or athlete support staff, on or off campus.

If in doubt, also consult the website of the South African Institute for Drug-Free Sport (<http://www.drugfreesport.org.za/>).

7. Responsibilities and Actions

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| Individual | <ul style="list-style-type: none"> • Familiarize yourself with the policy • Familiarize yourself with the risks of the use of alcohol, drugs and substances • Attend and participate in substance use education campaigns arranged by the university • Assist the university in creating a substance-free environment by not engaging in substance use activities • Co-operate with random drug searches/ testing • Understand that being under the influence of substances does not reduce the accountability of your actions • Report the excessive and abusive use of alcohol, drugs and substances wherever you may encounter this • Seek help voluntarily, should you consider that you may be suffering from a substance use problem |
| Colleagues | <ul style="list-style-type: none"> • Identify substance use problems by astute observation of colleagues or by addressing deteriorating work/ academic performances directly • Do not cover up or deny the existence of substance use problems where suspected or identified |
| Dept Head | <ul style="list-style-type: none"> • Keep confidential records of poor performance and attempt to address the problem directly and empathetically with the affected individual • Be clear in discussion wrt the expected level of performance required, and potential disciplinary actions • Determine with the member what “next steps“ action is appropriate, if any • Monitor progress going forward and follow up |
| University | <ul style="list-style-type: none"> • Implements the stipulations of the Substance Use Policy contained within this document • Encourages early voluntary reporting and treatment for alcohol, drug and substance use problems in staff and students • Respects the right to confidentiality of affected individuals, whilst supporting continuing education and employment • Favours a supportive treatment programme, as distinct from a disciplinary process • Make this policy continuously available to all staff and students, especially newcomers • Provide opportunities for ongoing applied research in this field within appropriate academic departments |

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|--------------------------|---|
| | <ul style="list-style-type: none"> • Establish a substance use monitoring and action committee on campus, to oversee substance use trends and develop appropriate remedial actions to address negative substance use patterns |
| Service providers | <ul style="list-style-type: none"> • Abide by the conditions as set out in this policy • Ensure confidentiality of all patient interactions • Assist with and develop substance use education and preventative initiatives to reduce alcohol, drug and substance use on campus |

7. POLICY CONTROL

7.1 Roles and responsibilities regarding application of policy

7.1.1 The policy has been approved by the University Council. The Rector is responsible for overseeing the execution of the policy, and has delegated the management of the policy to members of the Rector's Management Team (RMT), namely the Vice-Rector: Learning and Teaching (VR:L&T) and the Vice-Rector: Social Impact, Transformation and Personnel (VR:SI, T&P).

7.2 Relevant RC head

7.2.1 The vice-rectors mentioned at 6.1.1 are joint owners of this policy and are responsible for the policy being formulated, updated and implemented, as well as for a curator and complementary functionaries being appointed and functioning effectively.

7.3 Curator

7.3.1 The Senior Director: Student Affairs of the Division Student Affairs and the Chief Director: HR are jointly responsible for the curation of the policy and must ensure that it is formulated, approved, reviewed, communicated, made available and implemented. The curators also have the final say, subject to the Rector's approval, in matters regarding the policy.

7.4 Implementation

7.4.1 The curators are responsible for the implementation of the policy from the effective date or the review date. The stipulations of this policy become effective as soon as the SU Council has approved it.

7.5 Monitoring and Reporting

- 7.5.1 The owners of the policy are accountable and the curators are responsible for the necessary controls being established to monitor adherence to the policy.
- 7.5.2 The owners of the policy are accountable and the curators are responsible for reporting on the policy, which includes submitting an annual report to the RMT. Statistical feedback of incidents and a case management profile must be submitted once a semester to the VR:L&T and the VR:SI, T&P, as owners of the policy.

7.6 Release

- 7.6.1 The curators, advised by the Director: Legal Services, must disseminate information regarding completed cases.

7.7 Revision

- 7.7.1 The policy must be reviewed every five years – or sooner, if circumstances so dictate – or as deemed necessary.

7.8 Action in event of non-compliance

- 7.8.1 In case of noncompliance with the policy the curator must investigate the actions, context and possible reasons for noncompliance, and advise on remedial actions. In cases of serious noncompliance disciplinary procedures may be considered.

8. CONFLICT SETTLEMENT

9. DEFINITIONS

For the purpose of this policy, the following definitions apply:

| Afrikaans | English |
|------------------|--|
| | Substance means alcohol, an illicit drug, or a prescription drug which is used beyond normal clinical practice |
| | Abuse means consumption of a substance to the extent that it interferes with work, or detrimentally affects performance, or the ability to do the work, or interferes with relationships at work or whilst studying |

| | |
|--|--|
| | Dependence means the habitual reliance upon or addiction to the consumption of excessive quantities of alcohol or drugs, or both, or an inability to limit consumption to within reasonable limits |
| | SU official means any member of staff affiliated to SU Campus Health, including medical practitioners and Registered nurses |
| | Workplace includes, but is not limited to, the physical work site, restrooms, cafeterias, training sessions, business travel, conferences, work related social gatherings |
| | Addiction means a state of physiological and/or psychological dependence on a substance, especially an illegal drug liable to have damaging effects |
| | Illegal drug is not allowed by law because of its dangerous effects |
| | Narcotic a drug affecting the central nervous system and produces dizziness, euphoria, loss of memory, lack of co-ordination and unconsciousness |
| | Employee anyone who works for or renders services to SU on a full-time or part-time, regular or contract basis, and who performs duties and functions as may be assigned by the University |
| | Student a person(s) who is registered as a learner or conducting research at SU |
| | Rehabilitation a residential or non-residential process of medical or psychotherapeutic treatment of substance, alcohol or drug abuse with the intent to enable the patient to cease abuse to avoid related complications |

9. SUPPORTING DOCUMENTS

Addendum A:

Addendum B:

Addendum C:

10. RELATED DOCUMENTS

- The National Liquor act and regulations:
https://www.thedti.gov.za/business_regulation/nla_act.jsp
- Drug Trafficking Act and the Medicines Control Act:

https://www.imolin.org/doc/amlid/South%20Africa_Drugs%20and%20Drug%20Trafficking%20Act%20no.140%20of%201992.pdf

- Medicines and Related Substances Control Act:
https://www.hpcs.co.za/Uploads/editor/UserFiles/downloads/legislations/acts/medicines_and_related_sub_act_101_of_1965.pdf

- Prevention of and Treatment for Substance Abuse Act:
https://www.gov.za/sites/default/files/gcis_document/201409/32150436.pdf

- The local by-laws that might be applicable:

<https:// Stellenbosch.gov.za/documents/by-laws/6507-nuisance-and-impound-animal-by-law-september-2017/file> (deals with actions that may cause nuisance and disturbance to others)

<https:// Stellenbosch.gov.za/documents/by-laws/3289-stellenbosch-events-by-law-12-feb-2016/file> (events by-law - in a lesser sense applicable)

- Liquor by-law: <https:// Stellenbosch.gov.za/documents/by-laws/2433-liquor-by-law-for-comment-may-2015/file> (more applicable on trading, times)

- Tobacco Controls Act and regulations:

<https://www.tobaccocontrollaws.org/legislation/country/south-africa/summary>

- Control of Tobacco Products and Electronic Delivery Systems Draft Bill, 2018
<https://pmg.org.za/bill/787/>
- Constitution of South Africa (Act 108 of 1996)
- Tobacco Products Control Act, Act 83 of 1993 (principle Act)
- Tobacco products control Amendment Act, Act 12 of 1999
- GN R975 of 29 September 2000: notice relating to smoking of tobacco products in public areas
- Tobacco Products Control Amendment Act, Act 23 of 2007
- Tobacco Products Control Amendment Act, Act 63 of 2008
- OHS Act (No 85 of 1993)
- National Health Act (No 61 of 2003)
- National Environmental Management Act
- Occupational Health and Safety Act, 1993
- Labour Relations Act, 1995 (Schedule 8 of the Code of Good Practice)
- Basic Conditions of Employment Act, 1997, as amended
- Employment of Educators Act, 76 of 1998
- Road and Traffic Act (No 93 of 1996)
- Hazardous Substance Act, 1975

- <https://www.sasop.co.za/position-statements>

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