

ANA G. MÉNDEZ UNIVERSITY SYSTEM
HUMAN RESOURCES VICE PRESIDENCY

**POLICY FOR A COMMUNITY AND WORK ENVIRONMENT FREE OF DRUGS,
ALCOHOL AND TOBACCO**

Executive Order No: 03-2020

Effective Date: January 1, 2020

New

Amendment to Policy No. RH-14-213-001

dated August 1, 2014

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I. INTRODUCTION

The Ana G. Méndez University (hereinafter, "UAGM" or the "Institution") recognizes that the use and abuse of alcohol and controlled substances, as well as their dependence, limit the ability to perform effectively, increase absenteeism, cause deficiencies in performance, increase the number of accidents and affect social and moral harmony. Furthermore, the influence, manufacture, use, possession, sale, or distribution of controlled substances are considered crimes under the laws of Puerto Rico and the United States of America.

II. PURPOSE

This policy promotes a work environment free from the use, influence, manufacture, sale, possession and / or distribution of controlled substances - or from the improper or abusive use of controlled substances, alcohol or tobacco on UAGM premises and its locations. This is how the Institution has determined to:

- a. Provide a safe and healthy study and work environment,
- b. Protect students, faculty, employees and the general public,
- c. Provide optimal levels of productivity and quality in the provision of services
- d. Protect property or,
- e. Comply with applicable laws and regulations, including, without limitation:
 1. Drug Free Workplace Act, 1988,
 2. Drug Free Schools and Campuses Regulations,
 3. Law #4-1971, as amended, and
 4. Law #59-1997, as amended.
 5. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, known as Clery Act, as amended
 6. Human Resources Manual
 7. Faculty Manual

The substantial part of this Policy details its prohibitions, assigns responsibilities, identifies sanctions and disciplinary actions to be implemented.

III. SCOPE

The Policy for a Drug, Alcohol and Tobacco Free Community and Work Environment (hereinafter "Policy"), has been established by UAGM and applies to all employees, including - without limitation - regular, full term professors, lecturers or with another type of contract, as well as regular and temporary administrative personnel, institutional or projects subsidized with external funds from the UAGM. Therefore, it concerns its academic and administrative components, as well as all its affiliated institutions, facilities and entities.

IV. DEFINITIONS

- A. Accident** - Any event or consequence of an act, function or omission that affects or puts - any person or entity - in imminent risk of damage, injury or loss of health, safety or property.
- B. Employment Candidate** - Person identified as a result of a recruitment process at UAGM and to whom, even conditionally, a job offer is extended.
- C. Illegal drugs or controlled substances** - Those included in Classifications I and II of Section 2202 of title 24 of the Annotated Laws of Puerto Rico, as amended, known as the Controlled Substances Act of Puerto Rico, or any other legislation of the Commonwealth of Puerto Rico or the United States. States of America, except for the use of controlled substances by prescription or other use authorized by law, such as medicines obtained without a prescription.
- "Illegal drugs" or "controlled substances" include narcotics, hallucinogens, depressants, stimulants, synthetic drugs, or other substances capable of creating or maintaining adverse effects on people's physical, emotional, or mental states. It also includes controlled drugs for personal treatment purposes which do not have the corresponding prescription, issued and endorsed by a duly certified health professional, or whose use is not authorized by law.
- D. Legal Drugs or medications** - It includes drugs prescribed by a doctor, medicines or remedies available without a prescription, and alcoholic beverages. Medicines prescribed by a doctor are drugs that an individual may be taking under the supervision or direction of a health professional, duly certified, to treat a specific condition, be it physical, emotional or mental.
- E. Employee** - Any person hired by the UAGM. Includes regular employees, on probationary period and temporary or fixed-term employees; full-time or part-time under institutional funds, subsidized with external funds or performing in any other classification.

F. Institution's Doctor - Physician who works for the UAGM as an employee, independent contractor, referring physician or any other doctor appointed or contracted by the UAGM for the purpose of implementing and enforcing this policy, as well as the regulations that are derived from it.

G. UAGM Property –

All areas and localities in which work is studied or carried out by representatives or agents of the UAGM or any of its employees, or that are assigned to the UAGM for its use and / or the use of any of its employees, students, teachers, contractors, suppliers, visitors and / or landlords or tenants, as well as personal property located within said areas and locations.

The foregoing includes, without limitation: classrooms, offices, sports facilities, libraries, conference rooms, hallways, bathrooms, green areas, parking lots, cafeterias, bookstores, grounds, buildings, activities sponsored by the institution, structures and / or facilities. movable and immovable property located within the UAGM and public areas within or immediately adjacent to, and accessible from, the university campus, as defined and in the context of the Clery Act.

All work areas and locations owned by the UAGM -leased or under the control of the Ana G. Méndez University-, including, but not limited to, places where services are provided or products are handled, as well as parking lots, access roads within the grounds and locations of the UAGM, lockers and warehouse areas, among others.

H. EAP - Employee Assistance Program. Employee Assistance Programs are a cost-effective alternative to promote a better work environment. They are a valuable instrument, aimed at improving the living conditions in which employees operate. Employee Assistance Programs have proven to be a successful and necessary strategy to achieve physically and mentally capable employees, an essential requirement to offer quality services.

I. Individualized reasonable suspicion - Moral conviction that a specific person is under the influence or influence of alcohol or controlled substances, regardless of whether such fact is later confirmed or not. This suspicion must be based on observable and objective factors, such as:

1. Direct observation of the use or possession of alcohol or controlled substances,
2. Physical symptoms that warn of the influence of alcohol or any controlled substance,
3. **Repeated pattern of abnormal behavior or erratic behavior on the job.**
4. Negligent performance in violation of institutional regulations.

Reasonable and individualized suspicion must be established by at least two (2) supervisors of the employee's work area, of which one (1) must be his / her primary supervisor.

- J. UAGM Vehicles** - Automobiles, trucks, forklifts, boats, motor vehicles and any other vehicles belonging to the UAGM -or rented-, used in the operation of the UAGM and / or that are under its control or that of any of its representatives, employees, teachers , contractors, visitors and / or landlords or tenants.
- K. Drug, Alcohol and Tobacco Free Policy Implementation Evaluator** - Representative duly appointed by the president of the UAGM, who will evaluate and approve the requests for the exceptions established in this policy to be granted.
- L. Abnormal Conduct** - Conduct that deviates from institutional norms or patterns and that alter the functioning of the work area.

V. NORMS & PROCEDURES

A. PROHIBITIONS

It is an absolute prohibition for UAGM employees to use, consume, manufacture, sell, distribute, possess and / or be under the influence of alcohol or any controlled substance, during working hours. Any employee who engages in this behavior will violate this Policy. As a consequence, sanctions will be applied according to the federal and state laws concerned, and in accordance with the provisions of the UAGM Human Resource Manual, or as established in this Policy.

All employees are prohibited from possessing, consuming or using, presenting themselves under the influence (of), hiding or keeping, transporting, promoting, buying, selling and / or distributing within the UAGM premises, any of the substances or articles following:

1. Illegal drugs or related substances;
2. Over-the-counter drugs that can cause a negative side effect and jeopardize workplace safety, and / or any controlled substance;
3. Synthetic, designer, or similar drugs;
4. Alcoholic Beverages;
5. Drug paraphernalia and;
6. Vaping

In addition, administrative employees and teachers are prohibited from working, reporting to work, or appearing on UAGM premises under the influence of alcohol. An employee is classified as “under the influence of alcohol” when he exhibits any of the following circumstances:

1. Blood alcohol concentration higher than what is established by law;
2. If considered under the influence of alcohol under any federal or state law or regulation, or
3. When other circumstances show that you are under the influence of alcohol.

This means that employees who use illegal drugs during or outside of business hours could face disciplinary action, including termination of employment. **In addition, the use of tobacco, cigarettes and electronic cigarettes is prohibited within the UAGM premises.**

B. RESPONSIBILITIES

In addition to the rules and requirements established herein, all employees must comply with the UAGM rules and requirements that apply to their jobs and that the employees have been informed.

All employees must show at work free from the effects of controlled substances, alcohol and in optimal conditions to perform their duties safely, reliably and properly.

In order to preserve the purpose of this Policy, every employee is required to immediately notify the supervisors, security directors or Human Resources in writing of any accusation or conviction related to the infraction, or to the laws of controlled substances and / or alcohol, even if the events that led to the accusation or conviction did not occur in the work area.

Supervisors and employees are responsible for immediately notifying a Human Resources or Security Representative (institutional or systemic), regarding any incident, situation, fact or conduct that they witness or become aware of, which demonstrates or indicates that any person you are in violation of this Policy. This alert will also be made when there is reasonable suspicion to believe that an employee uses, consumes, manufactures, sells, distributes, possesses, promotes the use (of), and / or is under the influence of alcohol or controlled substances.

UAGM recognizes that employees may sometimes use prescription or non-prescription drugs. **Prescription medications** will be transported in their original container and will be used in accordance with the guidelines provided by the prescribing physician. Among the prescribed medicines, medical cannabis is included, which can only be transported by the employee who has the corresponding identification card with him. Medical cannabis will only be transported in its original container and will be used in accordance with the guidelines provided by the prescribing physician. Medicines purchased without a prescription can be transported and used on UAGM premises, as long as they are contained in the original container and are used according to the instructions given by their manufacturer. Inappropriate use, abuse or misuse by the employee regarding the use or consumption of prescription or non-prescription medicines, regardless of the effects of said medicine (causing drowsiness, constitutes a violation of this Policy. In addition, before an individualized reasonable suspicion, the UAGM may consult a health professional, if the use or consumption of any prescription or non-prescription medicine affects the employee's abilities to work safely and productively.

Any employee who takes over the counter or prescription drugs should consult the doctor who prescribed it - or the pharmacist - to determine if the drug may cause adverse effects that threaten their personal safety or that of others, or prevent them from performing efficiently.

Adverse effects include, but are not limited to sleepiness, disorientation, dizziness, incoordination, or any other effect on your senses.

In the event that the medication causes harm or affects judgment or performance, the employee will notify their supervisor as soon as possible that they will be using a medication, preferably before using or consuming it. The UAGM will explore alternatives to make accommodations or adjustments in relation to the functions or duties of the employee following the Reasonable Accommodation Protocol, until the employee can properly perform their duties.

If said accommodation cannot be granted or there is no reasonable accommodation, the employee could avail himself of a mechanism that applies as long as he complies with the requirements of this. A Human Resources representative or Security Officer may request a referral to a physician.

According to the provisions of the federal laws applicable to the Puerto Rico Drug Free Workplace Act of 1988 and the Drug Free School and Campus Regulation, the UAGM requires that all its employees comply with this Policy regarding the abuse of controlled substances, alcohol and the use of cigarettes. It is the responsibility of every employee to notify the institutional authorities within a term not exceeding (5) days after the conviction of any violation related to alcohol and drugs. In the case of an employee or teacher, their immediate supervisor and a Campus Human Resources Representative or Director of Security must be notified.

C. SANCTIONS / DISCIPLINARY MEASURES

UAGM reiterates its commitment to educate and inform its employees about the health risks associated with the misuse of controlled substances. For this purpose, the first consideration of the UAGM will always be to refer the employee to a program of assistance, treatment and orientation for their rehabilitation. However, disciplinary measures will be applied taking into account the relationship of the employee's conduct with his functions, its effect on the good and normal functioning of the UAGM and the risk to the safety of other employees and the general public.

When deciding what disciplinary measure or sanction will be applied or what action will be taken towards the employee (s) involved in violating this Policy, the UAGM would weigh:

1. The nature of the conduct,
2. The position or role performed by the employee,
3. Its work history -according to the UAGM personnel file,
4. The handling of the situation or any accusation by law enforcement officers or the courts and / or,
5. Any additional issue, such as: the impact of the situation on other employees, students and / or the way in which the operation or functioning of the UAGM is affected,
6. Repetition of behavior,
7. Any other issue that alters the institutional order.

Any employee incurred in any violation of this Policy will be subject to disciplinary actions that may include: formal discussion of the problem, warning

verbal, written warning, suspension of employment and salary or termination of employment, in accordance with the procedure established herein, with what is stipulated in other UAGM policies, with the way in which such infraction affects the well-being of the university community and with the repercussions caused to the declarations that enhance the educational mission of the UAGM.

An employee accused of using, consuming, manufacturing, selling, distributing, possessing and / or being under the influence of any controlled substance, during business hours, on or off work, may face suspension of employment during the time that his case in the courts of justice.

As mentioned before, the main objective is that the individual is given the opportunity to rehabilitate himself, to join a society free of this vice that certainly disables him to carry out his daily functions. The employee's refusal to undergo the rehabilitation program or after undergoing the rehabilitation program will be just cause for dismissal if the employee relapses into drug use again or if the rehabilitation approved by the UAGM through the Employee Help for Rehabilitation Program is not satisfactorily completed.

The penalties for these prohibited actions will be met according to the rules of conduct in the Human Resource Manual or as established in this Policy and in federal and state laws.

Any breach of this Policy could involve violations of federal or state law regarding the use and abuse of alcohol or controlled substances. Therefore, the Institution is empowered to take immediate disciplinary measures, regardless of where the violation occurred. In addition, any violation of federal or state laws may be referred to the Attorney General's offices of the Department of Justice for due investigation or prosecution.

D. EXCEPTIONS

1. Events and / or educational activities authorized by the **Evaluator of Implementation of the Drug, Alcohol and Tobacco Free Policy** that have an educational purpose or to raise funds for scholarships or other initiatives.
2. Events of organizations outside the university community, duly authorized by the **Evaluator of Implementation of the Drug, Alcohol and Tobacco Free Policy**.

Courses and / or educational activities offered by the José A. (Tony) Santana International School of Culinary Arts and Hospitality, where the use of alcoholic beverages is required as part of the academic program. Educational activities must be previously approved by the **Evaluator of Implementation of the Drug, Alcohol and Tobacco Free Policy**, according to the procedure for the approval of exceptions.

3. The activities referred to as exceptions must include, in addition to alcohol, the sale and / or consumption of food.

E. PROCEDURE FOR EXCEPTIONS

1. The interested person will submit an explanatory letter to the rector of the institution to authorize one of the exceptions contained in this policy.
2. Once evaluated by the Chancellor, the explanatory letter will be referred to the **Evaluator of Implementation of the Drug, Alcohol and Tobacco Free Policy** for evaluation and approval. This explanatory letter must be submitted with thirty (30) days prior to the date of the event.
3. Alcoholic beverages will be served only for consumption by persons of the legal age established for it, by virtue of state and federal laws. The entities or organizations in charge of the event will take the corresponding measures to ensure that the sale of alcohol is offered to people who meet the legal age required for its consumption. For this, the presentation of a reliable identification document that proves your age will be required.
4. In those cases in which the activity is offered by the Institution or by any of the UAGM programs, the sale of alcoholic beverages will be in charge of people who meet the requirement of having the legal age for it.
5. Attendees of the event are prohibited from entering and / or leaving the activities area with alcoholic beverages. The person in charge of the event will ensure that all types of solid waste including bottles, cans, etc. are collected and removed from the institution.
6. Application for the sale, use and consumption of alcohol for those activities that are subsidized with federal funds will not be authorized.

F. SEARCH AND INSPECTIONS

UAGM reserves the right to carry out searches and inspections as deemed necessary for the purpose of determining whether employees possess, use, are under the influence, manufacture, transport, or hide any prohibited article or substance, as defined herein. Such searches or inspections will proceed after receiving the approval of the UAGM security officers. These measures will be handled professionally, in accordance with current federal and local legislation and the procedure stipulated by the Office of Security and the Vice President of Human Resources. In such circumstances, the competent authorities would be notified.

G. CAPACITATION

The educational program will include an **Instructional Module** with the provisions of this policy. In addition, workshops, communications and information material will be included in the Human Resources portal. Educational conferences will be held annually for the community on the effect of alcohol and drugs.

H. EMPLOYEE ASSISTANCE PROGRAM

The UAGM may refer, to the **Employee Assistance Program (PAE)**, for evaluation, rehabilitation and treatment to any regular employee found to have incurred in a pattern of use of alcohol or controlled substances.

I. VALIDITY

This policy will take effect immediately after making the required disclosure to all UAGM staff.

J. APPROVALS

Victoria de Jesús, Ed.D.
VP of Human Resources

Date

Approved by:

José F. Méndez Méndez
President

Date