

# **SUBSTANCE USE AND ABUSE POLICY FOR EMPLOYEES AND STUDENTS**

## **Overview**

As required by the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989, this document will inform you of the Malone policy regarding the work-related effects of drug or alcohol use, and the prohibited possession, use, distribution or influence of controlled substances (drugs or alcohol) on Malone property or time, or while engaged in Malone activity or business, by employees or students.

In essence, the Malone Substance Use and Abuse Policy for Employees and Students provides as follows:

1. The goal of the Malone Substance Use and Abuse Policy is to assure that the Malone workplace, and our entire campus and full range of activities, are free of illegal or unauthorized drugs, drug activity or paraphernalia, and drug or alcohol use. It is our intent and commitment to provide a healthful, safe and secure work and educational environment, free of unlawful drugs and substance abuse.
2. Malone, as described in the Community Responsibility Statement, prohibits the possession, use, distribution, purchase, or sale (or solicitation of purchase or sale) of illegal or unauthorized drugs, drug-related paraphernalia or alcohol, or being under the influence of any such substance, by employees or students, while on Malone property or time, while conducting Malone business, while engaging in a Malone-related activity, or while operating or riding in any vehicle owned or supplied by Malone. Violations of this policy will result in severe disciplinary action, up to and including discharge of employees and expulsion of students.
3. The possession, use, or distribution of illegal drugs or other controlled substances, or of drug-related paraphernalia, by employees or students of Malone, may result in arrest, prosecution, conviction, substantial fines and/or imprisonment under Federal, state or local law, depending on the nature and circumstances of the criminal violation.
4. Malone recognizes drug and alcohol dependency and abuse as illnesses which are major health problems. Malone also recognizes drug and alcohol abuse as important safety and security problems because of the serious adverse effects that drug and alcohol use and abuse have upon perception, judgment, emotional stability, alertness, memory, strength, coordination, reflexes, and general mental and physical health and performance.
5. Employees needing help in dealing with problems of drug or alcohol use, dependency or abuse, are encouraged to contact the Human Resources Office. Students requiring such assistance are encouraged to contact the Office of Student Development.

6. In appropriate circumstances, Malone may request or require employees or students to submit to a program of assistance and/or rehabilitation for substance use or abuse.
7. Employees and students are obligated to report any personal conviction under a criminal drug statute to Malone's Human Resource Office or the Office of Student Development, as appropriate, within five (5) days after any such conviction.
8. Malone reserves the right to establish policies for conducting pre-employment substance use or abuse testing of job applicants, or other substance testing of employees or students (including, but not limited to, testing for reasonable cause or suspicion, post-accident, random, return-to-work or school, or follow-up testing), as required by law, or as may be determined to be appropriate by Malone.
9. Provisions of this policy also apply to an employee's or student's use of a drug prescribed for another person, or use of a prescribed drug in any way other than the manner, combination, or dosage prescribed for such employee or student by a duly licensed medical practitioner, and to prescribed drug use which substantially impairs work or academic performance or threatens the health or safety of the employee or student taking the prescription, or of others.
10. As a condition of employment or enrollment, employees and students of Malone shall honor and comply with the terms of this policy. Questions concerning the Malone Substance Use and Abuse Policy or its implementation should be directed to Michael Fairless, Director of Human Resources, or Chris Abrams, Vice President for Student Development. Your full compliance with this policy will be expected and appreciated.

## **A. Introduction**

1. This Substance Use and Abuse Policy has been adopted to meet the needs of Malone and the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989.
2. At Malone, as described in the Community Responsibility Statement, we are concerned about the effects which illegal drug activity and substance use and abuse might have on the health, performance and safety of our employees and students. Also, we are concerned about the potential impact of this problem on our liability risks with respect to our employees, our students and the general public.
3. We realize that the overwhelming majority of our employees and students are not involved with illegal drug activities or illegal or unauthorized drug or alcohol use or

abuse, and that those persons may be somewhat inconvenienced by some of the rules we have established under this policy. However, we believe the long-term results of this policy will provide for a safer, healthier and more productive academic, living and work environment for all of us.

4. While we will exercise reasonable efforts, under appropriate circumstances, to help students and employees with problems related to alcohol or drug use or abuse, we may be required to take disciplinary action (up to and including the discharge of employees, and the expulsion of students), against those who have not complied with this policy. Such action may be necessary for the benefit of non-complying individuals, fellow students and employees, Malone, and the general public.

## **B. Definitions**

For the purposes of this policy:

1. Alcohol or alcoholic beverage means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, such as methyl or isopropyl alcohol.
2. Drug means any substance, other than alcohol, capable of altering an individual's mood, perception, pain level or judgment.
3. Prescribed drug is a substance properly prescribed for individual consumption by a licensed medical practitioner.
4. Controlled substance means any drug, compound, mixture, preparation or other substance so defined and controlled under Federal, state, or local law.
5. Illegal drug is any drug or controlled substance (including, but not limited to, hallucinogenic drugs, amphetamines, barbiturates, cocaine and its derivatives, narcotics, and any other substance controlled by legal authorities), the possession, sale or consumption of which is prohibited by Federal or State law.
6. Unauthorized drug or controlled substance is any drug or controlled substance for which possession or use by employees or students, on Malone property, business or activity, is not specifically authorized or approved by Malone.
7. Being under the influence of alcohol or illegal or unauthorized drugs or controlled substances, means testing positive for any such substance, in a laboratory-confirmed test, or other reasonable demonstration of the unacceptable effect of

such substance on the behavior, perception or performance of the employee or student.

8. Positive test for alcohol is a laboratory-confirmed test showing an alcohol content of .04 or more grams per 210 milliliters of breath (or blood content of .04% or greater); and positive test for illegal or unauthorized drugs or controlled substances is a laboratory/medical review officer-confirmed urine or blood test showing the presence of a prohibited substance, at a level of concentration equal to or exceeding the specified unacceptable level for such substance, or a refusal to submit to testing required under this policy, or hindering or interfering with any such test or any related procedure or requirement.
9. Student shall include any person enrolled in any course of Malone for any kind of academic credit.
10. Employee shall include any person receiving any salary, wages, or other compensation for services rendered to Malone, including any common law employee or independent contractor as determined appropriate by Malone.
11. Conviction means a finding of guilt (whether or not preceded by a plea of guilty or no contest) or imposition of sentence, or both, regarding a drug-related crime, by a judicial body charged with the responsibility to determine violations of Federal, state or local law.

## **C. RULES**

At Malone, we are striving to ensure that the Malone workplace, our entire campus, and our full range of employee and student activities, are free of illegal or unauthorized drugs, drug activity or drug-related paraphernalia, and drug or alcohol use or abuse. It is both our intent and our commitment to provide a healthful, safe and secure work and educational environment, free of unlawful or unauthorized drugs and substance use or abuse. In order to achieve those objectives, we have adopted the following rules applicable to drugs and alcohol on the job, in the workplace, on the campus, and in Malone employee and student activities:

1. Malone strictly prohibits the possession, use, distribution, purchase or sale (or solicitation of purchase or sale) of illegal or unauthorized drugs, drug-related paraphernalia or alcohol, or being under the influence of any such substance, by employees or students, while on Malone property or time, while conducting Malone business, while engaging in Malone-related activities, or while operating or riding in any Malone-supplied vehicle. This prohibition includes, without

- limitation, any such misconduct while in any residential facility owned or provided by Malone, or while traveling in connection with any Malone-related business or activity. Violations of this policy may result in serious disciplinary action, up to and including the termination of employees and expulsion of students.
2. The possession, use, purchase, sale, or distribution of illegal or unauthorized drugs or other controlled substances, or drug-related paraphernalia, by employees or students of Malone, may result in arrest, prosecution, conviction, substantial fines, and/or imprisonment under Federal, state or local law, depending on the nature and circumstances of the criminal violation.
  3. An employee or student who commits an unlawful act related to drugs or alcohol, on or off Malone premises, or whose conduct related to drugs or alcohol substantially impairs safe and satisfactory employment or student status, or threatens the health, safety or welfare of any employee or student, or otherwise adversely affects the interests of Malone, its employees or students, will be subject to discipline, including termination or expulsion, as appropriate.
  4. No alcoholic beverage may be possessed or consumed on Malone property, while operating or riding in any Malone-supplied vehicle, or while on Malone business, time, or activity. An employee or student violating this rule is subject to discipline, up to and including termination or expulsion, as appropriate.
  5. No prescribed drug may be brought onto Malone property, including any Malone-supplied vehicle, or may be possessed while on Malone business, time or activity, by any person other than the one for whom the drug was prescribed. Prescribed drugs may be used by Malone employees and students only in the manner, dosage, and quantity properly prescribed for such persons and in a manner which does not substantially impair work or academic performance, safety, or health. Employees are required to notify their supervisor as to the use of any prescribed drug which may substantially and adversely affect performance of their duties (or which may threaten the health or safety of the employee taking the medication, or of others), and regarding any change in the use of such drug, so that the supervisor can be aware of any impairment, such as drowsiness, that prescribed drugs sometimes may cause. Similarly, students shall notify the Office of Student Development as to the use of such prescribed drugs. When possessed on Malone property, business, time or activity, any such prescribed drug should be kept in the original container, or with other pharmaceutical documentation, which identifies the drug, dosage, date of prescription and prescribing doctor.

6. All employees and students of Malone are prohibited from being under the influence of alcohol or illegal or unauthorized drugs while on Malone property or time, while engaged in Malone business or activity, or while operating or riding in any Malone-supplied vehicle. A violation of this rule is cause for discipline, up to and including termination or expulsion, as appropriate.
7. Any Malone employee or student whose off-campus use or abuse of alcohol, or of illegal, unauthorized or prescription drugs, results in excessive absenteeism or tardiness, or is the cause of any accident or unsatisfactory conduct or performance, or adversely affects the reputation or interests of Malone, may be disciplined, up to and including discharge of an employee or expulsion of a student; or such an individual may be asked to enter an assistance program for rehabilitation, at the sole discretion of Malone. Such an employee or student will be suspended, terminated or expelled if he or she rejects such a request by Malone to enter an assistance program. Details of the assistance program will be furnished by the Malone Human Resources Office or the Office of Student Development, when appropriate, upon request.
8. (a) Any employee of Malone convicted of any criminal drug statute violation which has occurred in the workplace, or during the performance of work-related duties or activities, shall report such conviction to Malone Human Resources Office within five (5) days after the conviction, as required by the Drug-Free Workplace Act of 1988. A student convicted of such a criminal drug statute violation shall report the conviction to the Office of Student Development within five (5) days after such conviction.  
  
(b) Furthermore, within (30) days after receiving notification of a conviction of a Malone employee or student for a work-related criminal drug statute violation, Malone will impose appropriate sanctions upon such convicted employee or student, or shall require satisfactory participation by such individual in a drug abuse assistance or rehabilitation program.
9. As a condition of initial and continued employment, employees of Malone shall honor and comply with the terms of this policy.
10. As a condition of initial and continued enrollment in Malone, students shall honor and comply with the terms of this policy.

11. To assist in providing a safe, healthy and productive Malone community environment, and to monitor and enforce compliance with policies and rules of conduct reasonable and appropriate surveillance, searches and monitoring of persons and properties on Malone property, including surveillance, searches and monitoring of persons and properties entering, leaving, or remaining on said property, as well as persons or properties, operating, or located in or upon, any Malone-supplied motor vehicle. Any employee or student failing to cooperate with respect to any such surveillance, search or monitoring will be subject to disciplinary action, up to and including termination of employees and expulsion of students.

#### **D. Reporting Prescribed Drug Use**

1. Employees and students of Malone have an obligation to report the use of any medically prescribed drugs or controlled substances that may substantially and adversely affect the performance of their duties or academic responsibilities. Such individuals should be prepared to produce satisfactory proof of medical authorization to work, upon request. Failure to report such use or to provide such authorization upon request may result in disciplinary action, up to and including discharge or expulsion, as appropriate. Furthermore, any employee or student taking a drug prescribed by a licensed physician must have the drug in its original container or with other pharmaceutical documentation which identifies the drug, dosage, date of prescription and authorizing physician. Employees must report this information to their immediate supervisor, and students to Malone's Health Center.
2. Any employee or student alleged to have violated Malone's drug possession or use prohibition will have the right to prove, by clear and convincing evidence, that the challenged possession or use of a drug or other controlled substance was properly prescribed by a licensed medical practitioner who was familiar with the employee's or student's medical history and Malone-related duties and responsibilities. However, as previously stated, employees and students are required promptly to notify Malone of prescribed drug use which may substantially and adversely affect performance of their duties or responsibilities to Malone.

#### **E. Voluntary Self-Identification Employee and Student Assistance; Return-to-Work Testing**

1. Employees and students are urged to voluntarily request assistance with alcohol or drug-related problems. Malone will make available a list of approved rehabilitation programs or providers. Employees are urged to use those providers

that are reimbursable under Malone's current health care provider. When determined necessary and appropriate by Malone, an unpaid leave of absence may be granted to allow successful completion of the program. An employee may or may not receive any compensation for such time away from work under the terms of applicable Malone policy.

2. Upon completion of such a program, employees or students may be subject to testing as part of a physical exam prior to return to work or class attendance, and to reasonable cause or suspicion testing, in addition to any random, follow-up or other testing which lawfully may be conducted by Malone.
3. Malone expressly reserves the right to determine whether or when an employee or student will be permitted to return to employment or enrollment with Malone after participation (or failure or refusal to participate) in any such assistance/rehabilitation program.

## **F. Drug-Free Awareness Program**

To assist our employees and students in understanding, avoiding and overcoming the perils of drug and alcohol abuse, Malone has developed a drug-free awareness program. The purpose of this program is to inform Malone employees and students about the dangers of drug and alcohol use and abuse, and to prevent and eliminate such use and abuse by our employees and students, in general, and with respect to Malone employment, enrollment and activity, in particular. The program also involves education concerning Malone Substance Use and Abuse Policy, the availability of treatment and counseling for employees and students, and the sanctions which Malone will impose for violations of the Substance Use and Abuse Policy, as well as related Federal and State criminal penalties.

## **G. Drug and Alcohol Abuse as Major Illness; Employee/Student Assistance Program**

1. Malone recognizes alcohol and drug dependency and abuse as serious illnesses and major health problems. Drug and alcohol use and abuse present important safety and security problems for Malone and the general public, because of the serious adverse effects which drug and alcohol use and abuse may have upon the user's perception, judgment, emotional stability, alertness, memory, strength, coordination, reflexes, and general mental/physical health and performance.
2. Recognition and treatment of drug or alcohol abuse are vital for successful rehabilitation, for return to effective academic or employment performance at

Malone, and for preventing severe personal, family and social disruption. Therefore, Malone encourages the earliest possible diagnosis and treatment of drug or alcohol abuse. When appropriate and reasonably feasible, Malone will assist employees and students in overcoming drug or alcohol abuse.

3. However, the decision to seek diagnosis and accept treatment for drug or alcohol abuse primarily is the responsibility of the individual employee or student. While Malone reserves the right to request or require students to seek such assistance for observed or demonstrated cause, employees or students with drug or alcohol-related problems generally should contact the Human Resources Office as soon as possible. Students of Malone requiring such assistance are encouraged to promptly contact the Office of Student Development at 471-8273.
4. Employees and students who undergo counseling and treatment for drug or alcohol abuse must meet all established standards of conduct and/or job or academic performance. Employees who seek needed help in dealing with such problems are encouraged to seek professional assistance, using their group health insurance as and when appropriate. In the absence of conduct or performance problems, or other impairment of Malone interests, an employee's or student's conscientious efforts to discontinue the use or abuse of alcohol, drugs, or other controlled substances will be encouraged and will not jeopardize such individual's employment or enrollment Malone status. Similar efforts undertaken by an employee or student as a result of disciplinary action also will be encouraged, but will not deter further action if performance problems continue.
5. Participation in this assistance program generally will not be available to the employee or student more than once during his or her employment or enrollment with Malone.
6. Voluntary requests for assistance under this policy will not prevent disciplinary action up to and including termination or expulsion, as appropriate, for any violation of this Substance Use and Abuse Policy or for any other policy violation or otherwise unacceptable conduct or performance. Furthermore, employees or students who undergo voluntary counseling or treatment pursuant to this policy, and who continue to work for, or to be enrolled in, Malone, must meet all pertinent standards of conduct and job or academic performance of Malone.

## **H. Drug Testing of Applicants, Employees and Students**

1. Malone reserves the right to establish policies for conducting pre-employment substance testing of job applicants, and reasonable cause or suspicion, post-

accident, random, return-to-work or school, post-rehabilitation, follow-up or other substance testing of employees or students, as required by law, or as Malone may determine to be appropriate.

2. For job applicants, employees or students, test specimens may be analyzed for any or all of the following substances (and for such other substances as Malone shall deem appropriate):

Alcohol

Cannabonoids: (Depressant)

(THC, Marijuana)

Amphetamines:(Stimulant)

Amphetamine Cocaine: (Stimulant)

Methamphetamine

Methadone: (Synthetic Narcotic)

Barbiturates:(Sedative/Hypnotic)

Amobarbital Methaqualone: (Sedative)

Aprobarbital

Autobarbital Opiates: (Narcotic/Analgesic)

Betalbital Heroin

Pentobarbital Codeine

Phenobarbital Hydromorphone

Secobarbital Morphine

Benzodiazepines: (Antianxiety) Phencyclidine: (Hallucinogen)

Chlordiazepoxide

Clorazepate Propoxyphene: (Synthetic Narcotic)

Diazepam

Flurazepam

Oxazepam

## **I. Substance Use and Abuse Policy Goals; Policy Changes; No Employment or Enrollment Contract or Promise**

1. The primary goals of this policy are greater safety for our employees, students, and the general public, improved productivity, and help and rehabilitation for employees or students requiring assistance for substance abuse. Employees and students are required to cooperate and comply fully with the rules and procedures of this policy.
2. Malone reserves the right to amend, supplement or revoke any part of this policy, at such times and under such circumstances as Malone shall determine to be

appropriate. Notices regarding any such amendment, supplement or revocation will be given to affected personnel of Malone.

3. NOTHING IN THIS POLICY SHALL BE CONSTRUED AS A CONTRACT OR PROMISE OF EMPLOYMENT OR ENROLLMENT.