

Drug-Free Schools and Communities Act: Common Pitfalls in Compliance



Michael DeBowes, Ph.D.
Director of Research & Strategic Initiatives,
NACCOP and D. Stafford & Associates
mdebowes@naccop.org

0

Major DFSCA Requirements



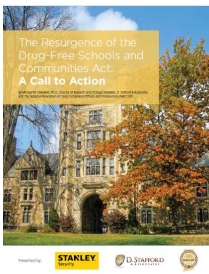
- Adopt and implement a materially-complete Drug and Alcohol Abuse Prevention Program ("DAAPP")
- Annually distribute the DAAPP to all students and employees
- Every other year, conduct a "biennial review" of the DAAPP's effectiveness

© All Rights Reserved by NACCOP

1

1

NACCOP White Paper



- "The Resurgence of the Drug-Free Schools and Communities Act: A Call to Action"
- To access, visit:
www.stanleycss.com/dfsca

© All Rights Reserved by NACCOP

2

2

Common Pitfalls: The Big Four



- Incomplete or Nonexistent DAAPP
- Failure to distribute the DAAPP to ALL students and employees each year
- Failure to conduct a substantive biennial review
- Failure to produce a biennial review report that contains all pertinent information

© All Rights Reserved by NACCOP

3

3

Common DAAPP Pitfalls



- **Standards of Conduct**
 - Does not address the minimum standards of conduct required by law (possession, use, and distribution of illicit drugs and alcohol)
 - Does not include other AOD standards of conduct developed by IHE (e.g., rules establishing quantity limits for of-age persons in residential facilities)
- **Local, State, and Federal legal sanctions**
 - Local and/or Federal often missing
 - Sanctions address alcohol or drugs, but not both
 - Separate campus implications

© All Rights Reserved by NACCOP

4

4

Common DAAPP Pitfalls



- **Health Risks**
 - Addresses drugs or alcohol, but not both
 - Inadequate description of health risks
- **AOD Resources**
 - Listed resources only apply to students (no employee resources are mentioned/described)
 - Community resources are overlooked
 - Separate campus implications (availability of IHE resources may differ by campus)

© All Rights Reserved by NACCOP

5

5

Common DAAPP Pitfalls



■ Institution Sanctions

- ❑ Employee sanctions missing
- ❑ Sanctions listed, but not described
- ❑ Sanctions do not include the required option of expulsion (for students) or termination (for employees)
- ❑ No clear statement that the IHE "will impose sanctions"

© All Rights Reserved by NACOP

6

6

Other DAAPP Pitfalls



- DAAPP only applies to students
- Conflating the DFSCA and Drug-Free Workplace Act of 1988
- DAAPP not summarized in a single, fully-compliant document
- Conflating AOD education and prevention initiatives/programs with a written DAAPP

© All Rights Reserved by NACOP

7

7

Common DAAPP Distribution Pitfalls



- DAAPP passively included in IHE publications, such as student/employee handbooks (no active distribution)
- DAAPP not distributed to all student types (online-only, dual-enrolled, incarcerated students, etc.)

© All Rights Reserved by NACOP

8

8

Common DAAPP Distribution Pitfalls



- No provision to distribute the DAAPP to
 - students who enroll, and
 - employees who are hired**after** the initial distribution each year
- DAAPP included in Annual Security Report only
 - Reminder: the Clery Act requires you to publish "A description of any drug or alcohol-abuse education programs."
 - "Education programs" = DAAPP

© All Rights Reserved by NACCOP

9

9

Common Biennial Review Pitfalls



- No review conducted
- Review conducted by single individual/office
- Review occurred, but no report produced
- Consistency of sanction enforcement
 - Not addressed
 - Addressed for students only
 - Addressed, but lacks a description of *how* the IHE determined sanctions are being consistently enforced

© All Rights Reserved by NACCOP

10

10

Common Biennial Review Pitfalls



- Report does not include required statistics enumerated in the statute
 - # Violations
 - # Fatalities
 - # and Type of Sanctions
- Report lacks a description of the research methods/data analysis tools used to determine effectiveness
- Report does not contain signature of president

© All Rights Reserved by NACCOP

11

11

Common Biennial Review Pitfalls



- Report primarily summarizes educational efforts and does not actually determine the effectiveness of the DAAPP
- Report lacks forward-focused recommendations to improve the effectiveness of the DAAPP

© All Rights Reserved by NACCOP

12

12

DFSCA Action Steps



- Locate and review the DAAPP to ensure it contains all required components.
- Ensure that the DAAPP is actively distributed to every current student and employee, to include those students who enroll after their annual distribution date and those new employees hired after the annual distribution date.

© All Rights Reserved by NACCOP

13

13

DFSCA Action Steps



- Conduct a substantive biennial review and document the results in a biennial review report.
 - Ensure the review addresses the effectiveness of the DAAPP, consistency of sanction enforcement, and includes required statistics.
- Develop policies and procedures to ensure DAAPP is distributed annually and evaluated every other year, as required.
- Maintain records of compliance.

© All Rights Reserved by NACCOP

14

14

Do You Have a Committee?

- This is not something that the campus police/public safety or CCO can (or should) do alone
 - Legal Counsel
 - Student Health
 - Health Promotion Staff/AOD Prevention Educators
 - Counseling Center
 - Human Resources
 - Senior Student Affairs Officer
 - Student Leaders/SGA*
 - Compliance/Internal Audit
 - Student Conduct
 - Housing/Residence Life
 - Provost/VP Academic Affairs
 - Campus Police/Public Safety
 - Athletics
 - Student Activities
 - Fraternity/Sorority Life
 - Faculty with relevant teaching/research agendas

© All Rights Reserved by NACCOP

15

15

Inside Higher Ed (2019)

News & Views Careers Events Reports & Data **INSIDE HIGHER ED** Admissions DI

Training Higher Ed Careers Online Students Subscribe Here

Views **Open**

The Consequences of Not Complying

As institutions focus on sexual misconduct and campus safety, they should not forget to law that require them to curb harmful and illegal substances, with Bradley G. Carter and Michael M. Delmonico

By Bradley G. Carter and Michael M. Delmonico / February 18, 2019

Since the release of the (now rescinded) April 2011 Dear Colleague letter on sexual violence, hardly a week has passed without news of a campus sexual assault or a lawsuit or federal investigation about one. The historic problems at Penn State University, Michigan State University, Baylor University and elsewhere have not been persistent patterns of institutional neglect or of disregard for federal rules on campus safety. Title IX and the Clery Act are now focal points for campus safety attention to higher education in the United States.

But another important federal law gets much less attention and has not made a mark on the vernacular of compliance discussions: the Drug-Free Schools and Communities Act Amendments of 1986 (DFSCA). Language of this law, which was signed in a lesser-known 2011 letter to campus administrators that the Department of Education would be

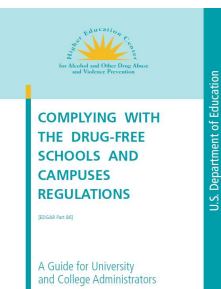
- <https://www.insidehighered.com/views/2019/02/18/colleges-are-facing-more-consequences-not-complying-drug-free-schools-and>

© All Rights Reserved by NACCOP

16

16

DFSCA Compliance Manual



- Complying with the Drug-Free Schools and Campuses Regulations: A Guide for University and College Administrators (2006)

- To access, visit: <http://files.eric.ed.gov/fulltext/ED514322.pdf>

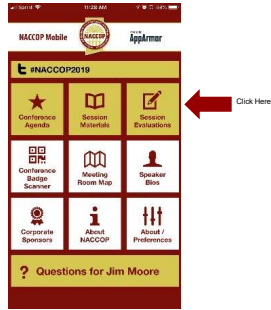
© All Rights Reserved by NACCOP

17

17



Remember to Evaluate This Session!



© All Rights Reserved by NACCOP

18

18

CONFIDENTIAL
Guest User (161.57.100.172)