

**Rutgers University Senate
Student Affairs Committee
Response to Charge S-1611:
Examination of University Policy on Student Use of Drugs and Alcohol
April 2017**

On September 9, 2016, the Senate Executive Committee issued Charge S-1611: Examination of University Policy on Student Use of Drugs and Alcohol: Consider, evaluate, and make recommendations, if necessary, for changes to university policy on student use of drugs and alcohol. Consider the role of restorative justice in this university policy. Consider any deterrent effects of current policy to students seeking emergency medical services. Refer to the Medical Amnesty Report authored by the Rutgers University Student Assembly for additional information when considering this charge.

In order to provide the appropriate context for the issues discussed in this report it is also important to understand the issues that were raised when this charge was brought before the Student Affairs Committee. Some of the issues raised when this policy was brought before this committee were:

1. The last time the University Senate reviewed Student Alcohol policy was in 1999.
2. Our policies do not currently have a statute of limitations. A student may be charged with a violation committed as a freshmen during that student's senior year. This is fundamentally unfair as a student may have forgotten the events that transpired or witnesses to the event may have graduated or transferred to other institutions.
3. The policy prohibiting alcohol and drugs at Rutgers University uses vague language which ultimately makes it difficult for students to understand which conduct is prohibited and which conduct is allowed¹.
4. The possible sanctions for violation of policy may differ grossly from student to student, which raises issues of fundamental fairness and due process for students.
5. It is current policy to remove any student arrested for marijuana possession prior to any hearing or student disciplinary proceeding. [Note: such a policy is currently under moratorium and review at the New Brunswick campus].

Background Investigation

The Student Affairs Committee held several investigative hearings this academic year in order to investigate the current drug and alcohol policy and the distinctions between practices on each Rutgers campus. Below we provide our findings from these hearings. Additionally, the

¹ One particular example of this vagueness is apparent at the New Brunswick campus. Prior to the current academic year, underage students reported a *de facto* policy that allowed possession of empty alcohol containers. However, this past academic year, students residing in residence began reporting that possession of empty containers would result in documentation of the student for violation of policy.

committee investigated the impact of these policies on students. From our investigation we identify a number of best practices across the university in addressing and handling drug use by students and make appropriate recommendations to provide for an effective and restorative approach.

Rutgers-Camden Campus

At Rutgers-Camden there is generally no specific policy stating a particular sanction for being caught in the possession of illegal drugs, such as marijuana. However, an on-campus student's possession of illegal substances on campus (excluding underage possession of alcohol alcohol) results in the removal of that student from his/her current residence hall. A student found responsible for possession of illegal substances has an ability to appeal this finding; an appeal consists of a first instance appeal to a graduate student (judicial officer) and then further appeals to a full time residence life staff member. The Camden campus currently maintains as a matter of policy that most alleged residential hall offenses would warrant a notification to the RUPD in order to ensure the safety of the other residents. Offenses such as suspicion of marijuana possession by residential staff, possession of kegs, and noise violations may result in notification of the police.

Camden campus policies currently authorize the use of financial fines as means of restitution or for similar purposes; however, fines are not implemented exclusively as means of deterrence. Education sanctions are very often assigned to increase student awareness and safety on campus. Other sanctions include, probation or (typically for subsequent offenses) suspension.

Another policy that the Camden Campus utilizes is a threat assessment team, which identifies students of concern. The team comes together to review students who are in danger of failing or have misconduct on their records, review issues of domestic violence, and create action and exit plans for students as needed. The exit plan assist students who would be removed from their residence hall, but not necessarily suspended or banned from campus. These plans help facilitate logistics of living arrangements for students at risk of being removed from on campus housing. On a regular basis the Camden Campus asks faculty to identify warning signs for the students a faculty member teaches. This survey has an 85% response rate and the threat assessment team follows up on reported students.

Recently, the Rutgers Student Code of Conduct and the Drug and Alcohol policy were amended to include exceptions for students seeking medical assistance. This medical amnesty policy has been officially implemented in Camden and responsible authorities are working towards spreading the word to all students on campus.

Current Rutgers Camden Housing Policy Language:²

² <https://housing.camden.rutgers.edu/sites/housing/files/On-Campus%20Living%20Guide%202016-2017-FINAL.pdf>

“State and federal laws regarding the possession, use and distribution of drugs, both legal and illegal, are to be adhered to by all campus residents and their guests.

1. Students charged with possession, possession with intent to distribute or with selling drugs will be immediately and permanently removed from campus housing and are subject to a University disciplinary hearing.
2. Any violation of state law could result in University disciplinary action and/or criminal prosecution.

Any person who illegally possesses, uses, manufactures or prepares, buys, sells, gives away or otherwise dispenses, or knowingly gives access to those who intend to distribute any controlled or dangerous substance within any housing facility or on any Housing property becomes subject to eviction. In the event that a substance suspected to be illegal is found in or around the residence halls, Rutgers Police will be called in to respond. If necessary, the allegedly illegal substance will be removed. Rutgers Police Department, Residence Life Staff, and the Dean of Students Office will take further action.”

New Brunswick Campus

The most recent drug policy at the New Brunswick Campus allowed for immediate relocation of housing and subsequent loss of housing without a refund if a student was arrested for possession of marijuana. After investigation with numerous administrators, the committee concluded that the de facto policy at the New Brunswick campus was to remove all student arrested for possession of any drug, including marijuana, from on campus housing. The removal would occur whether or not the student was arrested on or off campus. If a student was arrested for possession off-campus and Rutgers-New Brunswick Residence Life became aware of this incident, the student would generally also be removed from housing. Relocation is generally immediate and subsequent removal typically occurs after a period of 48 hours. All these actions would be taken prior to any opportunity for a student to be afforded due process rights through a hearing. Additionally, this process of removal from housing would be applied irrespective of where the student lives at home. Thus students who live 10 minutes away as well as out of state and international students may be removed from housing in as little as 48 hours. Although it is possible for a student to request an extension on some of these deadlines, there is no guarantee of an extension. While the university does offer students support groups for finding housing, there is no assistance nor promise of guaranteed alternative housing arrangements before removal from campus. The current policy was adopted the semester after a tragic drug related incident in the fall of 2015 when a student was stabbed by another student.³

³ The part of this policy related to immediate removal from housing is currently on moratorium and is under review. University hearing boards may still recommend that a student be removed from housing as a consequence of possession of marijuana or other illegal substances in the dorms.

After outcry by students, especially by the Rutgers University Student Assembly (RUSA), this policy of immediate removal from housing for first-time possession of marijuana offenses was put on a temporary moratorium. This policy had been implemented without consultation of students or student groups.

Last year, Student Affairs implemented fines for drug offenses and repeated alcohol offenses. The minimum recommended sanctions for drug possession and underage possession of alcohol on the second offense recommend monetary fines. Recommended fines range from \$100 to \$250 dollars.⁴ These fines were implemented as an actionary approach to preventing violations of the University's alcohol and drug policy. These fines are applied to students across the board, irrespective of socioeconomic status. In our investigation we identified that no other Rutgers campus subdivision has implemented or is considering implementing fines as policy on campus.

Current Rutgers-New Brunswick Housing Policy⁵:

“Any suspicion of illegal drug use in residence halls, apartments or suites will be immediately reported to Rutgers University Police. Use or possession of illegal drugs may result in arrest, immediate relocation, loss of housing without refund, and mandatory assignment to substance counseling. Distribution of drugs will result in arrest and can result in permanent expulsion from the University.” There are 36 cases of students who have been displaced from housing for simple possession of marijuana charges during the Fall 2016 semester.

Further investigation has identified instances prior to the Spring of 2016 in which students were not removed from on campus housing for a first time offense of simple possession of marijuana arrest. The general penalties were mandatory drug abuse classes with ADAPS, as well as probation when appropriate. The students were not removed from housing on their first offense. Housing removal was a possible and given sanction upon the second offense.

Newark Campus

At Rutgers-Newark, the current *de jure* policy allows for a student to be removed for drug use or possession; however, in the course of our investigation the committee found that students at Rutgers-Newark were typically given housing probation for first time violations of the drug and alcohol policy in the dorms. At this time, students who are found in violation of the policy and reside in residence halls are typically not sanctioned through Community Standards as long as a sanctioned student complies with all interventions mandated by the Office of Residence Life. Students who do not comply with the sanctions prescribed by Residence Life are referred to Community Standards and may be subject to removal from housing. This past school year out of

⁴ Currently, possession of alcohol or drugs is a \$100 fine for the second offense and a \$200 fine for the third offense. At the fourth offense the recommended sanction is a disciplinary expulsion. For more details on recommended sanctions please see <http://studentconduct.rutgers.edu/fines/#1465408955644-79c02955-dd7a>

⁵ <http://ruoncampus.rutgers.edu/policies/residence-hall-policies/drug-policy/>

approximately fifteen hundred students, only two were subject to removal due to drug and alcohol violations.

In general--the Newark campus sanctions students on an individual basis. The campus has not implemented fines for students as a deterrent, but may impose fines as a means of restitution. Although Medical Amnesty was only implemented as a *de jure* policy this past year, for the past 3 years the *de facto* procedure at Newark considered Medical Amnesty in its investigations and did not penalize students who came forward to ask for medical assistance. For students who are found in possession of drugs, those students are typically put on housing probation among other penalties. Typically students are assigned counseling as an educational sanctions. There is also a discussion to implement a zero-tolerance policy in the residence halls for possession of illegal substances; the committee does not believe this is an appropriate policy in light of the university's mission to educate students. Underage students in possession of alcohol are typically reprimanded on the first offense and assigned to drug and alcohol counseling.

During the committee's investigation, we took the individual campus climate into consideration on all the campuses. One important consideration on the Newark campus, especially in regards to the regulation of drugs and alcohol, is the difficulty in addressing this issue with a large commuter student population. Additionally, with the close proximity of the Newark campus to other universities, there is a need to collaborate with authorities on the other campuses to fully address this issue.

Current Rutgers-Newark Housing Policy:⁶

“Any person who is in the presence of, illegally possesses, uses, manufactures, prepares, buys, sells, gives away, or otherwise dispenses any controlled or dangerous substance within any Rutgers University – Newark Housing facility and/or property becomes subject to eviction. In the event that a substance suspected to be illegal is found in or around the residence halls, Rutgers Police will be called to respond. If necessary, the allegedly illegal substance will be removed. Rutgers Police Department, Residence Life Staff, and the Dean of Students will take further action. The presence of the odor of marijuana in a room or area of the residence hall, or the physical evidence of the use of drugs found in plain sight of the observer, however insignificant, including the presence of any kind or form of drug or drug paraphernalia, whether such is being used at the time of discovery or not, constitutes a violation of this regulation.”

Medical Amnesty Policy at Rutgers University

During the 2015-2016 academic year the Rutgers University Student Assembly (RUSA) investigated medical amnesty and issued a report⁷. This report analyzed medical amnesty

⁶ <https://housing.newark.rutgers.edu/sites/default/files/Guide%20to%20Residence%20Life%202016-2017.pdf>

⁷ <http://senate.rutgers.edu/RUSAMedicalAmnestyReport.pdf>

policies at universities throughout the country and called for a medical amnesty policy at Rutgers University. Medical amnesty allows an individual to request medical assistance for overdose of a specific drug without the fear of prosecution. The Board of Governors acted in the fall of 2016 to adopt a medical amnesty policy at Rutgers University. The committee commends the board for their actions. However, we also believe that the policy adopted could do more. The current policy only protects students who seek help for alcohol related incidences. Students who overdose on other drugs need to be able to seek medical assistance. The state legislature of New Jersey has expanded medical amnesty to all drugs in the State of New Jersey. As a committee, we recommend the university adopt a medical amnesty policy that allows students to seek help for overdoses relating to any drugs.

Discussion

As it is evident from our investigation and findings, there is disparity on the various campus subdivisions with regards to drug and alcohol policy. Different campuses have implemented different policies in regards to how that campus deals with drug and alcohol violations on campus. These policies are not always publicized and instead instituted as internal procedures of the campus Department of Student Affairs or Department on Student Conduct. As a committee we believe that it is important for uniform standards throughout the university. Students who are found responsible for similar violations under similar circumstances on different campuses may face drastically different penalties. This disparity raises issues of fundamental fairness in our disciplinary processes. As such, this committee identified a number of best practices from each campus.

The Student Affairs Committee deliberated and investigated the use of fines as sanctions for violations of drug and alcohol policies. The committee found that students who are arrested for drug possession have to navigate through the judicial system and may face severe financial difficulties due to legal costs, court costs, and potential fines. The University should not contribute to a student's financial hardships; instead the university should focus on educating its students. Educational sanctions that all campuses currently employ, such as drug and alcohol counseling serve this purpose. The Student Affairs Committee does not believe that punitive sanctions should not be imposed, we believe that a fine is disproportionate, ineffective, and contributes to a significant financial burden on students.

As a committee we also considered other issues that were raised in the issuance of this charge. In our investigation there was no indication of *de jure* policy outlining how long after an allegation a hearing may be held. Over time memories may fade, students may graduate or transfer to other institutions and it may be difficult for a student to defend themselves. The university should investigate an appropriate statute of limitations on its policies, specifically drug and alcohol policies. As a society, we believe in a fair process in which all parties have a right to present evidence and contest any allegations against them.

Additionally, on each campus the committee found that students may appeal to have findings against them expunged after a sufficient period of time has elapsed. Students may find it

difficult to be informed of the process by which an expungement can occur. Additionally, expungement policies and procedures are not always publicly accessible by students and should be easily accessible.

In response to our findings and investigations we present the following resolution with appropriate recommendations.

Be It Resolved that the Rutgers University Senate embraces restorative justice and educational sanctions with regard to policies for drug and alcohol violations;

And Be It Further Resolved that the Rutgers University Senate urges the administration:

1. To modify its residence life policies so that students are not immediately removed from housing after a first time simple possession of marijuana offense;
2. To create a process in coordination with students by which students may expunge first time alcohol and marijuana offenses from university student conduct records, and to publicize and make this policy and its implementation available to all students;
3. To amend its policies to establish a limitation on the period of time that can elapse between an alleged violation of the student code of conduct relating to the drug and alcohol policies, and formal allegations being made against a student;
4. To notify and consult the appropriate student governing organization(s) prior to any change in drug or alcohol policy being made that concerns the students the organization represents;
5. To implement a medical amnesty policy that allows students to seek help for overdoses relating to any drugs.

2016-17 Student Affairs Committee

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