

**STUDENT DRUG AND ALCOHOL
VIOLATIONS AT INSTITUTIONS OF
HIGHER EDUCATION: PARENTAL
NOTIFICATION AND ACCESS TO
STUDENT RECORDS**

JANUARY 2009



General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION
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The release of this report should not be interpreted as an endorsement by the members of the Executive Committee of the Joint State Government Commission of all the findings, recommendations or conclusions contained in this report.

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January 2009

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Joint State Government Commission is pleased to present the report of the staff study on Student Drug and Alcohol Violations at Institutions of Higher Education and Parental Access to Student Records. The report is presented pursuant to 2008 Senate Resolution 243.

The report presents the results of a web-based survey of a representative sample of institutions of higher education in the United States and in the Commonwealth of Pennsylvania. The survey researched the policies of these institutions in two categories: parental notification when a student violates the institution's drug and alcohol policy; and, parental access to a student's educational record, without the student's consent, when the information is necessary to protect the health and safety of a student or others. Further, the report summarizes pertinent Federal and state laws regarding these policies and presents the findings on Federal and state laws pertaining to drug and alcohol abuse by faculty of institutions of higher education.

The Commission acknowledges with gratitude the support and assistance of the staff of State Senator Andrew Dinniman in the preparation of this report.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David L. Hostetter".

David L. Hostetter
Executive Director

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INTRODUCTION

Substance abuse continues to be one of the most challenging issues facing our nation and this Commonwealth. The abuse of drugs and alcohol impacts not only society as a whole, but also, communities, schools and families. Statistics demonstrate that the consequences of drug and alcohol abuse and addiction are serious, including for family members and friends of substance abusers.¹

Drug and alcohol abuse is a particularly serious problem on college and university campuses, and it is garnering more attention from concerned administrators, policymakers and parents. So-called “binge” drinking has become the extracurricular activity of choice for many college students, especially underage students.² As will be examined in a later chapter, the data are alarming in terms of the deaths, injuries, sexual assaults and rapes occurring as a direct result of drug and alcohol abuse.³

Parents are frequently shocked when they learn that their son or daughter has been involved in a serious incident involving drugs and alcohol, and they frequently do not learn about it directly from the post-secondary institution where it occurred.⁴

As incidents arising from drug and alcohol abuse both increase and intensify on campus, parents are growing increasingly concerned about why such incidents occur and whether future incidents could be prevented if they were informed about such incidents involving their student as well as given access to information necessary to protect the health and safety of their student and others.⁵

Lawsuits by parents against post-secondary institutions have aided in bringing attention to the importance of recognizing parents as partners with colleges and universities in providing for a safe and healthy campus environment.⁶ Many institutions

¹ “What Parents Need to Know About College Drinking,” <http://www.collegedrinkingprevention.gov/NIAAACollegeMaterials/parentBrochure.aspx> (1/6/09).

² “Tempest in a Bottle,” *Los Angeles Times*, September 1, 2008, <http://articles.latimes.com/2008/sep/01/health/he-drinking1> (1/6/09).

³ “What Parents Need to Know About College Drinking,” *supra* note 1.

⁴ “If Under 21, Alcohol, Drug Offenses to be Reported to Parents,” *Knoxville News Sentinel*, June 30, 2008, <http://www.knoxnews.com/news/2008/jun/30/students-not-all-on-own> (1/6/09).

⁵ Inter-Association Task Force on Alcohol and Other Substance Abuse Issues, “Parental Notification,” www.iatf.org/parent1a.htm (1/6/09).

⁶ Palmer, Carolyn J., Lohman, Gretchen, Gehring, Donald D., Carlson, Sarah, and Garrett, Olan, “Parental Notification: A New Strategy to Reduce Alcohol Abuse on Campus,” *NASPA Journal*, Vol. 38, no. 3, Spring 2001, p. 373.

have determined that it is in their best interest to keep parents “in the loop” when there are incidents involving their children, especially with regard to drugs and alcohol.⁷

Also helping to raise the consciousness of colleges and universities to the involvement of parents is the additional flexibility afforded the institutions by Federal law governing educational rights and privacy. Parental notification is one of the avenues the institutions are able to take to ensure parents are aware of what is transpiring in the life of their student.⁸

As this report will show, a number of colleges and universities across the country and in Pennsylvania have determined that notifying parents in these circumstances is an appropriate policy to help combat the growing problem of drug and alcohol abuse on college campuses.

A 1998 amendment to the Federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) authorized educational institutions to notify parents, without the consent of the student, when that student has committed a violation of the institution’s drug and alcohol policy. Initial research, albeit preliminary, shows that parental notification policies, as permitted under the FERPA amendment, have produced a reduction in repeat violations of institutional drug and alcohol policies.⁹

However, parents have found it more challenging to gain access to information about their student. This information, if revealed in a timely manner, may reveal potential problems the student is having which could later result in troubles with drugs and alcohol. As a later chapter will explain, parental access to the educational records of their children, under the provisions of FERPA, is significantly restricted and many institutions have established policies protecting the privacy rights of students regardless of circumstances whereby parents could be of assistance.

Substance abuse in the workplace continues to plague society costing employers large amounts of money in lost productivity and resulting in other negative consequences.¹⁰ College and university campuses are no exception and faculty members are not exempt from the problems associated with the abuse of these substances. Government at both the Federal and state levels has acted to address this problem through comprehensive legislation.

⁷ Inter-Association Task Force on Alcohol and Other Substance Abuse Issues, *supra* note 5.
⁸ “Parental Notification,” CampusHealthandSafety.org, <http://www.campushealthandsafety.org/keyissues/parentalnotification> (1/6/09).
⁹ *Ibid.*
¹⁰ Harwood, H; Fountain, D.; and Livermore, G. *The Economic Costs of Alcohol and Drug Abuse in the United States 1992*. Rockville, Maryland: National Institute on Drug Abuse, 1998.

Senate Resolution 243, Printer's Number 2299 directed the Joint State Government Commission (JSGC) to undertake a study examining the issues briefly described in the preceding paragraphs.¹¹

First, the Commission was asked to examine the extent to which states, through statute or regulation, require institutions of higher education to either notify parents when their student violates the institution's drug and alcohol policy or provide parents with personal information from the student's educational record, without the student's consent, when the information is necessary to protect the health and safety of the student or other individuals.

Second, the resolution directed that the Commission use a representative sample of institutions nationally and within the Commonwealth to determine whether institutions have enacted policies for providing parental notification of a drug or alcohol policy violation and whether and to what extent institutions have policies for the disclosure to parents of personal information from a student's educational records without the student's consent if deemed necessary to protect the health and safety of the student or other individuals.

Third, the Commission was directed to summarize the rationales of institutions for either having or not having policies relating to parental notification or parental access to personal information from a student's educational record.

Fourth, the resolution requested that the Commission examine the laws of each state as well as college and university policies regarding drug and alcohol abuse among faculty members.

This report contains the Commission's findings in each of these areas.

¹¹ Please see Appendix A for a copy of this resolution.

METHODOLOGY

Senate Resolution 243 (SR 243) asked the JSGC to study the laws of each state in the United States concerning the policies and practices of institutions of higher education regarding:

- the notification of parents when a student violates an institution's drug and alcohol policy;
- the access of parents to a student's record without the student's consent when the information is necessary to protect the health and safety of the student or other individuals; and
- the abuse of drugs and alcohol by faculty.

In order to adequately respond to these three items, staff began by conducting a literature review of other research performed including an examination of specific state's laws regarding these topics.

Whereas the JSGC was also directed to examine the policies of a representative sample of institutions in the United States and in the Commonwealth, staff developed a method by which a valid representative sample could be established. The development of this representative sample is explained in the following section, where the results of the research are presented.

Finally, a literature review was performed to determine whether there were specific and relevant state statutes or regulations governing the abuse of drugs and alcohol by college and university faculty.

CREATING A REPRESENTATIVE SAMPLE OF POST-SECONDARY INSTITUTIONS

In order to respond to the questions pertaining to a representative sample of post-secondary institutions, JSGC staff needed to develop a method to representatively select postsecondary institutions across the United States as well as Pennsylvania. Staff began by viewing the National Center for Education Statistics (NCES) website and utilizing the website's searchable database of all post-secondary colleges and universities in the United States.¹² For the purpose of this study, staff narrowed the scope of study to include only two- and four-year degree granting institutions located in one of the 50 states and the District of Columbia listed on the NCES database. In total, there were 4,314 post-secondary institutions that matched this description as of July 29, 2008.¹³ Staff downloaded information pertaining to these institutions to create a new database called the *United States' Database*. Next, 261 post-secondary institutions that were located in Pennsylvania were pulled out of the *United States' Database* and placed in a second database, called the *Pennsylvania Database*. This left 4,053 post-secondary institutions in the *United States' Database* from 49 states and the District of Columbia.

In determining what post-secondary institutions were selected as part of the representative sample, it was essential to ensure the sample contained a proportional selection of two-year and four-year institutions; public and private institutions; and institutions on various campus locations such as rural, urban, suburban and town settings. Furthermore, staff also wanted to ensure that small, mid-size and large institutions had an equal chance of being selected for the representative sample. The NCES database contained nearly all of this information.

The institutions within the *United States Database* were divided into categories based on type of school: two-year versus four-year and public versus private, as well as by location (rural, suburban, urban, and town) as classified by NCES, resulting in 16 different categories stated in the bulleted list below. In order to make the representative sample be proportional across all categories, the total number of institutions within each category was multiplied by the same number, 0.025 (or 2.5 percent), and this product was rounded up to the nearest whole number. This resulting figure was the number of institutions selected for the representative sample within each category. The first number in parentheses following each category in the bulleted list below represents the total number of institutions within the 49 states and the District of Columbia that fall into the category.¹⁴ The second number in the parentheses represents the number of institutions selected to be in the representative sample within that category.

¹² The website link is <http://nces.ed.gov/collegenavigator/> (11/26/08).

¹³ July 29, 2008 was the date that JSGC staff downloaded the post-secondary institution information from the NCES's database (<http://nces.ed.gov/collegenavigator/>).

¹⁴ This does not include Pennsylvania post-secondary institutions.

Categories of Post-Secondary Institutions

- 2-year, public city (299, 8)
- 4-year, public city (298, 8)
- 2-year, public suburb (174, 5)
- 4-year, public suburb (85, 3)
- 2-year, public rural (309, 8)
- 4-year, public rural (70, 2)
- 2-year, public town (233, 6)
- 4-year, public town (146, 4)
- 2-year, private city (287, 8)
- 4-year, private city (1027, 26)
- 2-year, private suburb (165, 5)
- 4-year, private suburb (476, 12)
- 2-year, private rural (51, 2)
- 4-year, private rural (183, 5)
- 2-year, private town (24, 1)
- 4-year, private town (226, 6)

In order to ensure that institutions of all sizes were selected to be in the representative sample, staff ranked each institution within each of the 16 categories by total population of students (largest to smallest).¹⁵ Staff then selected the representative sample within each of these lists by evenly selecting institutions within each category. For example, there were 299 institutions within the category of two-year, public, urban institutions. Since eight institutions needed to be selected, staff chose every 42nd institution, beginning with the second institution listed and selecting every 42nd institution after that until eight were selected. Every effort was made to ensure that one of the smallest and one of the largest institutions were selected within each category when possible.¹⁶ Please see Appendix C for a complete list of post-secondary institutions selected for the representative sample of 49 states and the District of Columbia.

In total, Table 1 summarizes how many post-secondary institutions were selected by various categories.

¹⁵ There were a few institutions that did not have the total number of students listed within the NCES database. In these cases, these schools were listed after the smallest schools.

¹⁶ More information regarding the details behind the selection of institutions for the representative sample can be obtained by contacting the Joint State Government Commission.

TABLE 1
TOTAL NUMBER OF POST-SECONDARY
INSTITUTIONS IN 49 STATES¹ AND THE DISTRICT OF COLUMBIA
WITHIN VARIOUS CATEGORIES
IN JULY 2008

| Category | Number of post- secondary institutions in 49 states ¹ and the D.C. | Number of post- secondary institutions in 49 states* and the D.C. in the representative sample | Percentage of institutions selected |
|----------------------|--|--|--|
| 2-year institutions | 1,542 | 43 | 2.8% |
| 4-year institutions | 2,511 | 66 | 2.6 |
| Total | 4,053 | 109 | 2.7 |
| Public institutions | 1,614 | 44 | 2.7 |
| Private institutions | 2,439 | 65 | 2.7 |
| Total | 4,053 | 109 | 2.7 |
| City | 1,911 | 50 | 2.6 |
| Rural | 613 | 17 | 2.8 |
| Suburb | 900 | 25 | 2.8 |
| Town | 629 | 17 | 2.7 |
| Total | 4,053 | 109 | 2.7 |

1. Pennsylvania institutions are not included on this table.

Source: The data in this table was provided by Joint State Government Commission staff.

Once the national representative sample list was created, staff then turned its attention to selecting institutions within Pennsylvania to create a representative sample within Pennsylvania. Since the primary focus of this research study was Pennsylvania post-secondary institutions, staff determined that there should be a higher percentage of institutions selected within the Commonwealth than the national percentage selected of 2.5 percent. Furthermore, since SR 243 directed the JSGC to present the results of its research on this subject to the Senate of Pennsylvania, staff decided to concentrate its efforts more fully on the public post-secondary institutions within Pennsylvania since these are the institutions where the Legislature could potentially require changes to colleges' and universities' policies as a condition to receiving state funding. Consequently, staff decided to look at parental notification and parental access to records policies for all of the 14 state-owned universities, four state-related universities and 14 community colleges in Pennsylvania shown below.¹⁷

Pennsylvania State-Owned Universities (all 4-year institutions)

- Bloomsburg University of Pennsylvania
- California University of Pennsylvania
- Cheyney University of Pennsylvania
- Clarion University of Pennsylvania
- East Stroudsburg University of Pennsylvania
- Edinboro University of Pennsylvania
- Indiana University of Pennsylvania
- Kutztown University of Pennsylvania
- Lock Haven University of Pennsylvania
- Mansfield University of Pennsylvania
- Millersville University of Pennsylvania
- Shippensburg University of Pennsylvania
- Slippery Rock University of Pennsylvania
- West Chester University of Pennsylvania

¹⁷ Although the NCES database did include the satellite campuses of various post-secondary institutions as separate institutions, for this part of the research, staff assumed satellite campuses of public institutions held the same or similar policies on parental notification as the main campus of the institution. For example, staff assumed that The Pennsylvania State University, Harrisburg's policy on parental notification is the same or similar as The Pennsylvania State University, University Park's policy of parental notification.

Pennsylvania State-Related Universities (all 4-year institutions)

- Lincoln University
- The Pennsylvania State University
- Temple University
- University of Pittsburgh

Pennsylvania Community Colleges (all 2-year institutions)

- Bucks County Community College
- Butler County Community College
- Community College of Allegheny County
- Community College of Beaver County
- Community College of Philadelphia
- Delaware County Community College
- Harrisburg Area Community College
- Lehigh Carbon Community College
- Luzerne County Community College
- Montgomery County Community College
- Northampton County Area Community College
- Pennsylvania Highlands Community College
- Reading Area Community College
- Westmoreland County Community College

The last step in creating a representative sample of post-secondary institutions within Pennsylvania involved selecting the private colleges and universities. Using the *Pennsylvania Database* as described earlier, staff used a nearly identical approach to selecting private institutions within Pennsylvania as they did when selecting public and private institutions in the other 49 states and the District of Columbia. The only difference was that instead of selecting at least 2.5 percent, staff selected at least 25 percent of each institution category. Table 2's columns are identical to Table 1's columns except that Table 2 only contains private post-secondary institutions within Pennsylvania while Table 1 contains private and public post-secondary institutions with the other 49 states and the District of Columbia.

TABLE 2
TOTAL NUMBER OF PRIVATE POST-SECONDARY INSTITUTIONS
IN PENNSYLVANIA WITHIN VARIOUS CATEGORIES
IN JULY 2008

| Category | Number of post-secondary private institutions in PA | Number of post-secondary private institutions in PA in the representative sample | Percentage of private institutions selected |
|---------------------|---|--|---|
| 2-year institutions | 87 | 24 | 27.6% |
| 4-year institutions | 114 | 30 | 26.3 |
| Total | 201 | 54 | 26.9 |
| City | 76 | 20 | 26.3 |
| Rural | 13 | 4 | 30.8 |
| Suburb | 94 | 24 | 25.5 |
| Town | 18 | 6 | 33.3 |
| Total | 201 | 54 | 26.9 |

Source: The data in this table was provided by Joint State Government Commission staff.

HOW POLICIES OF POST-SECONDARY INSTITUTIONS IN THE REPRESENTATIVE SAMPLE WERE LOCATED

Once the list of all of the institutions that would be part of the representative sample was completed, staff began to examine the policies of each institution using the institution’s website. Staff initially believed that in an era of computers and electronic records, the vast majority of colleges and universities would have the student sanctions for drug and alcohol violations as well as policies regarding parental notification and access to student records on their websites. However, as will be discussed later in this report, staff found that many schools still do not have various institutional policies on their website. Due to limited time and resource constraints for the report, if an institution did not have a policy or sanction related to the staff’s research on their website, the institution’s policy was categorized as not found. Chapters in this report called “Parental Notification of Student Violations of Drug and Alcohol Policies” and “Parental Access to Educational Records without Student Consent” detail further the implications of not finding these policies on the institutions’ websites.

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT – AN OVERVIEW

A comprehensive treatment of the issue of notifying parents of students attending institutions of higher education in the United States would be incomplete without consideration of the Family Educational Rights and Privacy Act (FERPA). The United States Department of Education describes FERPA, succinctly, as follows:

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.¹⁸

The Department goes on to note that:

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are “eligible students”.¹⁹

FERPA generally requires that an eligible student, or the parent of a non-eligible student, provide written permission to the school before the school may release information from the student's education record. However, there are certain exceptions to this requirement. A school may release information to the following without first obtaining written permission:

- School officials with a legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

¹⁸ Website of the United States Department of Education,
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> (11/24/08).

¹⁹ Ibid.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.

Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.²⁰

A 1974 amendment to FERPA allowed schools to release information from a student's education records (without prior consent) to parents of dependent students, as that status is defined in the Internal Revenue Code.²¹

In 1998, FERPA was amended to allow educational institutions to disclose campus drug and alcohol related violations (regardless of whether that information is contained in the student's education records) to parents without the prior consent of the offending student. This exception applies to all students under the age of 21 where the educational institution has determined that the student has committed a disciplinary violation with respect to the use or possession of the drug or of alcohol.²²

For the purposes of this report (per Senate Resolution 243), the FERPA provisions allowing disclosure to parents of students under the age of 21 where there is a drug and/or alcohol violation involved, as referenced above, and the right of schools to release information in instances of concern for the health and safety of the student or of others are the most germane provisions of the law.

In regard to concerns about health and safety: "FERPA ... allows an educational agency or institution to disclose personally identifiable information from education records, without prior written consent, in connection with an emergency [to] appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons".²³ This, in turn, leads to the question of whether FERPA contemplates the release of information to parents as "appropriate persons."

²⁰ Website of the United States Department of Education, *supra* note 18, citing 34 CFR Section 99.31.

²¹ Website of the United States Department of Education, <http://www.ed.gov/policy/gen/guid/fpco/ferpa/leg-history.html> (11/24/08).

²² *Ibid.*

²³ Website of the United States Department of Education, citing 20 U.S.C. § 1232g(b)(1)(I); 34 CFR §§ 99.31(a)(10) 99.36 <http://www.ed.gov/policy/gen/guid/fpco/ferpa/library/baiseunmslc.html>, (12/08/08).

In the “Frequently Asked Questions” section of The United States Department of Education’s website, as it relates to FERPA – both the statute itself and the relevant regulations – the Department specifically addresses the question of whether a school may disclose information to parents in a health or safety emergency. The Department’s answer is as follows:

The Department interprets FERPA to permit schools to disclose information from education records to parents if a health or safety emergency involves their son or daughter.²⁴

The following question and answer exchange from the section of the Department’s website entitled Parent’s Guide to the Family Educational Rights and Privacy Act: Rights Regarding Children’s Education Records (October 2007) provides a concise summary of FERPA – conveniently collapsing the preceding overview into a useful recap:

Does FERPA give me a right to see the education records of my son or daughter who is in college?

When a student turns 18 years old or enters a post-secondary institution at any age, all rights afforded to you as a parent under FERPA transfer to the student (eligible student). However, FERPA provides ways in which a school may—but is not required to share information from an eligible student’s education records with parents, without the student’s consent. For example:

Schools may disclose education records to parents if the student is claimed as a dependent for tax purposes.

Schools may disclose education records to parents if a health or safety emergency involves their son or daughter.

Schools may inform parents of the student, under age 21, who has violated any law or policy concerning the use or possession of alcohol or a controlled substance.

A school official may generally share with a parent information that is based on that official’s personal knowledge or observation of the student.²⁵

²⁴ Website of The United States Department of Education, <http://www.ed.gov/policy/gen/guid/fpc/hottopics/ht-parents-postsecstudents.html> (12/08/08).

²⁵ Website of The United States Department of Education, <http://www.ed.gov/policy/gen/guid/fpc/brochures/parents.html> (12/08/08).

DRUG AND ALCOHOL ABUSE ON COLLEGE AND UNIVERSITY CAMPUSES

Drug and alcohol abuse continue to be one of, if not the most, problematic issues facing colleges and universities across the country. While this problem continues to plague college administrators, progress continues to be made using a variety of approaches. Parental involvement and notification are proving to be effective in helping to curtail these abuses. Since the 1998 FERPA amendment enabling postsecondary institutions to notify parents of a student's violation of the campus drug and alcohol policy took effect, the number of institutions adopting parental notification policies has grown annually, and studies show they are having the desired effect. However, some resistance is still being met within the campus community. The last decade has demonstrated that much work still needs to be done to curtail the instances of drug and alcohol abuse on campuses across the nation and within the Commonwealth.

EXAMPLES OF ABUSE

One of the challenges for post-secondary institutions and their administrators is striking the right balance between parental notification policies and respecting a student's privacy. The president of the Massachusetts Institute of Technology described the situation as "balancing students' legal and medical privacy rights with the obvious interest of parents in knowing how their sons and daughters are doing."²⁶ As described by another administrator, "The freedom and independence of college life means students are making their own choices for the first time."²⁷ However, some students make poor choices when it comes to engaging in potentially harmful behavior by consuming excessive amounts of alcohol, using illegal drugs, abusing prescription drugs, or binge drinking, where students consume five or more drinks in one sitting. "Although statistics indicate that college drinking is down from a decade ago, several recent studies show that binge drinking...remains a serious problem."²⁸

²⁶Mark Clayton, "Privacy vs. Protection," *The Christian Science Monitor*, February 12, 2002
<http://www.csmonitor.com/2002/0212/p16s01-lehl.html> (7/16/08).

²⁷Winthrop University, "Presidents' Message on Alcohol and Drug Abuse,"
<http://www.winthrop.edu/president/alcomessage.htm> (12/12/08).

²⁸Buddy T., "College Binge Drinking Kills," *About.com*, July 21, 2006
<http://alcoholism.about.com/cs/college/a/aa990922.htm> (12/11/08).

According to the National Institutes of Health, “Alcohol is a leading contributor to injury death, the main cause of death for people under age 21.”²⁹ Nationwide “alcohol is a factor in the deaths of 1,400 college students each year.”³⁰ Another unfortunate statistic shows “Students who engage in drinking and other drug use are not just harming themselves, but also those around them.”³¹ In addition to fatalities, over 500,000 students between ages 18 and 24 are injured, while tens of thousands more engage in or are victims of assault, sexual abuse, unsafe sex, vandalism, drunk driving, related health issues and academic problems.³² Others affected can include roommates, professors, friends and parents.³³ Newspapers are filled with stories of students dying from, or as the result of, these excesses.

Despite all the warnings and health education students receive, they are still abusing drugs and alcohol to tragic consequences. They simply fail to recognize the danger in their behavior and do not realize it can kill. In 2004, a severely inebriated University of Delaware student was killed when struck by a train while walking home from a party.³⁴ In 2007 a Towson University student died at an off-campus party after a night of ingesting at least 10 beers, four shots, and painkillers.³⁵ At Penn State, a report by *The Daily Collegian* lists recent alcohol casualties as: a student killed in a house fire; three students killed in a DUI car crash; a faculty member killed by a drunk driver while walking his dog; a student dying from a brain hemorrhage after falling onto the sidewalk and fracturing his skull, while drunk; and a student enduring multiple surgeries and needing ongoing medical care after passing out while walking home from a party and suffering severe frostbite.³⁶

²⁹ NIAAA, “The Scope of the Problem,” <http://pubs.niaaa.nih.gov/publications/arh283/111-120.htm> (12/12/08).

³⁰ Pennsylvania Treatment Centers, “Binge Drinking on Campus Lower in States with Stronger Alcohol Control Laws,” <http://www.treatment-center.com/articles/7527/Binge+Drinking+on+Campus+Lower> (12/5/08).

³¹ “Alcohol and Drug Abuse on College Campuses,” *The White House Initiative on Educational Excellence For Hispanic Americans*, <http://www.yic.gov/drugfree/alcabuse.html> (12/5/08).

³² NIAAA, “What Parents Need To Know About College Drinking,” <http://www.collegedrinkingprevention.gov/media/FINALParents.pdf> (12/12/08).

³³ “Drug and Alcohol Abuse and College Students,” <http://www.collegedruggingabuse.com/> (12/5/08).

³⁴ Mike Chalmers, “For some, college kicks off in wild style,” *The Delaware News Journal*, September 3, 2006 http://compelledtoact.com/Involvement_pages/Parent_awareness/First_day_at_college.htm (12/12/08).

³⁵ Brian Stelter, “Sophomore dies following Colony party,” *CompelledToAct.com*, February 10, 2007 http://compelledtoact.com/Tragic_listing/Villella.htm (12/12/08).

³⁶ Bill Mahon, “PSU spokesman blames alcohol for student death,” *The Daily Collegian*, February 22, 2006 <http://www.collegian.psu.edu/archive/2006/02/02-22-06tdc/02-22-06dops-column-02.asp> (12/5/08).

A COMPREHENSIVE APPROACH

A word of caution was expressed for institutions that implement a parental notification policy to not view it as a “quick fix,” but rather as part of a campus’s total program to curb drug and alcohol abuse.³⁷ Many schools have, in fact, focused on a more comprehensive approach, sometimes referred to as community-based initiatives. These campus-community partnerships often involve “college administrators, elected officials, students, parents, law enforcement, concerned bar owners and community residents working together.”³⁸

A 2007 study funded by the United States Department of Education’s Office of Safe and Drug Free Schools examined 22 schools that received model program grants. Those schools used a variety of methods to curb drug and alcohol abuse on campus, including: alcohol free social options; peer mentors and leadership training; stricter enforcement of campus policies; reduced on campus alcohol promotions and advertisements; unique education efforts to dispel high-risk behavior; substance free housing; working with fraternities and sororities to reduce underage drinking; and working with local bar and tavern owners to end promotions aimed at students, to name a few. In most cases, these efforts included a parental notification and involvement program, some with provisions to notify parents for both on- and off-campus violations.³⁹ These comprehensive prevention programs are “changing the physical, social, legal, and economic environments on campuses and in surrounding communities.”⁴⁰

One local effort that has drawn national attention is “The Bloomsburg Initiative.” After 15 Bloomsburg University students died in the previous 15 years, a task force was formed in 2001 and was comprised of officials from the local government, police department and university. The result was a “Comprehensive Alcohol Enforcement Plan.” On- and off- campus alcohol sanctions were tightened, local ordinances were strengthened, education and training was expanded, and the on-campus judicial system was improved. The result has been fewer police incidents involving alcohol and “a change in the campus culture and student expectations.”⁴¹

³⁷ Inter-Association Task Force on Alcohol and Other Substances Abuse Issues, *supra* note 5.

³⁸ “A Matter of Degree: The National Effort to Reduce High-Risk Drinking on College Campuses,” http://www.alcoholpolicymd.com/press_room/brochures/bi_amod.htm (12/10/08).

³⁹ US Department of Education, “Experiences in Effective Prevention,” August 2007 <http://www.higheredcenter.org/services/publications/experiences-effective-prevention> (12/11/08).

⁴⁰ US Department of Education, “Alcohol and Other Drug Prevention on College Campuses,” September 2008 <http://www.higheredcenter.org/files/product/model.pdf> (12/11/08).

⁴¹ The Higher Education Center for Alcohol and Other Drug Prevention, “Jessica Kozloff,” <http://www2.edc.org/cchs/plg/profiles/kozloff.pdf> (12/11/08); Underage drinking Enforcement Training Center, “Pennsylvania Success Stories,” http://www.udetc.org/documents/success_stories/PA0205.pdf (12/11/08).

PARENTAL NOTIFICATION OF STUDENT VIOLATIONS OF DRUG AND ALCOHOL POLICIES

Senate Resolution 243 directs the JSGC to determine “whether and to what extent states through statute or regulation require institutions to provide parents notification of a violation of the institution’s drug or alcohol policy by the student”

STATE LAWS

Currently, there appears to be only one state in the nation which requires institutions of higher education to notify parents when a student violates the institution’s drug and alcohol policy. That state is Tennessee, and the measure was signed into law on June 19, 2008.

The law is the first of its kind in the country and takes advantage of a 1998 amendment to the Family Educational Rights and Privacy Act. FERPA prohibits schools from releasing other information about students 18 or older without the student’s permission, but under the 1998 amendment, schools can decide whether or not to notify parents in the case of drug and alcohol violations.⁴²

Tennessee’s unique status as the only state with such a requirement was verified by Commission staff through a request for information made to the Education Commission of the States. It was confirmed that Tennessee is the only state, whether by statute or regulation, which requires its state institutions of higher education to notify parents in the instance of a student’s drug or alcohol violation.⁴³

The Tennessee law is brief and reads as follows:

A public institution of higher education shall notify a parent or legal guardian of a student under twenty-one (21) years of age, if the student has committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance that is in violation of any federal, state or local law, or of any rule or policy of the institution, except as prohibited

⁴² Pounds, Jessie. “If under 21, alcohol, drug offenses to be reported to parents, June 20, 2008, <http://www.knoxnews.com/news/2008/jun/30/students-not-all-on-own/> (7/14/08).

⁴³ In a document prepared for the Joint State Government Commission by The Education Commission of the States entitled “Student Records/Rights,” July 29, 2008.

by the Family Educational Rights and Privacy Act (FERPA), compiled in 20 U.S.C. § 1232g.⁴⁴

The only other state that appears to address the issue of parental notification as it relates to drug and/or alcohol violations by students at state institutions of higher education is Iowa. However, Iowa's law merely reaffirms the rights provided to schools by FERPA. In 2000, Iowa amended an existing statute regarding disclosure by a post-secondary education institution of information to a parent or guardian of a student. The amendment reads as follows:

This subsection shall not be construed to prohibit a post-secondary education institution from disclosing to a parent or guardian information regarding a violation of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the child is under the age of twenty-one years and the institution determines that the student committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance regardless of whether that information is contained in the student's education records.⁴⁵

In 2008, Virginia amended its law as follows:

The board of visitors or other governing body of every public institution of higher education in Virginia shall establish policies and procedures requiring the release of the educational record of a dependent student, as defined by 20 U.S.C. Section 1232g, to a parent at his request.⁴⁶

Virginia's amendment is merely a reaffirmation of the rights of parents of dependent students under FERPA and does not require the notification of parents in the instance where a dependent student violates a school's drug and/or alcohol policy.

⁴⁴ TENN. CODE ANN. Section 49-7-146 (2008) (12/8/08).

⁴⁵ IOWA CODE Section 22.7 (2007) at:

<http://search.legis.state.ia.us/NXT/gateway.dll/IowaState/ISLRoot> (12/8/08).

⁴⁶ VA. CODE ANN. Section 23-9.2:3 (D) (2008) at: <http://leg1.state.va.us> (12/8/08).

METHODOLOGY

Senate Resolution 243 of 2008 asked the JSGC to determine if post-secondary institutions within a representative sample have policies or practices regarding parental notification of a violation of the institution's drug or alcohol policy by a student.⁴⁷ Using the method discussed in a previous chapter, staff first began looking at each of the drug and alcohol policies and sanctions for 109 institutions selected nationally as well as the 86 institutions selected throughout Pennsylvania.

Due to limited time and resource constraints for this study, staff research concentrated on what institutions' drug and alcohol policies and sanctions were included on institutions' websites. Staff believed that institutions' student drug and alcohol policies and sanctions for violating these policies would most likely be placed in a very accessible location such as an institution website. A search was performed on each university's website to locate their drug and alcohol policies and any sanctions that may be listed for violations of such policies. As was quickly discovered, not all schools list the sanctions for violations of these policies and a few did not even mention the institution's policy on drugs and alcohol on its website.⁴⁸ Even institutions that provided the policies and sanctions for violations of these policies online did not always put these policies and sanctions in an area of the website that could easily be found. Drug and alcohol policies and sanctions were found on institution websites' course catalogs, student handbooks, residential housing and health services sections, as well as other less obvious sections of the institutions' website.

Despite the problems staff had with finding many of the drug and alcohol policies and sanctions for violations of these policies, staff was able to categorize all 195 institutions viewed as either *yes*, *maybe*, *no* or *not found* in answer to the following question: *Will parents be notified when their IRS dependent son or daughter violates a college or university drug or alcohol policy?* Below is a brief summary of what institution policies were included under each answer.

Institution policies that were included as *yes* responses to whether or not parents will be notified regarding a drug and/or alcohol violation included policies that specifically state parents **WILL** be notified in cases of drug and/or alcohol violations. This includes policies that state they will notify on second and subsequent offenses as well as other policies that specifically outline that parents **WILL** be notified on every specific drug or alcohol violations.

⁴⁷ While SR 243 did not specifically define what type of "student" could have his or her parents notified in the event of a drug or alcohol violation, JSGC staff assumed that the writers of the Resolution meant students over the age of 18 and still considered a dependent on their parents Internal Revenue Service (IRS) tax forms.

⁴⁸ There were also two very small, religious, post-secondary institutions with no website that staff could locate.

Institution policies that were recorded as a *maybe* to the question of whether or not parents will be notified on drug and alcohol violations only included policies that stated that parents MAY be notified or various college officials reserve the right to notify parents after violations of the drug and alcohol policies. Although these policies were recorded as *maybe*, it is quite possible that in practice, these institutions do routinely contact parents for violations of the drug and alcohol policies. However, without the resources necessary to individually contact each institution and interview institution officials on their practices regarding these policies, it is impossible to know for sure if they definitely contact parents or not regarding drug and alcohol violations.

Institution policies that were recorded as a *no* regarding the question of whether or not parents will be notified on drug and alcohol violations included institutions where drug and alcohol policies and sanctions were found online, but there was no mention of a specific notification of parents. This includes policies that state that other penalties could be implemented if appropriate institution officials deem them necessary. Technically, institutions within this category could notify parents in practice or in some cases, but do not specifically mention that sanction as a possibility.

Finally, institutions that did not have a website or did not mention its drug and alcohol policy online or did not list any sanctions for violations of these policies online were classified under the response of *not found*.

DATA FROM THE REPRESENTATIVE SAMPLE

Using the four categories explained above (yes, maybe, no and not found), the tables below show the percentage of institutions within the representative sample that do or do not notify parents when their IRS dependent son or daughter violates a post-secondary institution's drug or alcohol policy.

In Pennsylvania, 20.9 percent of the 86 post-secondary institutions examined specifically stated parents will be notified in cases of drug and/or alcohol violations. See Table 3. The highest percentage of *yes* responses was found in the four-year, public institution type. The total *no* category was slightly higher, at 26.7 percent. The highest percentage of *no* responses was found in the two-year, public institution type. The total *maybe* and *not found* categories were also similar with 23.3 percent and 29.1 percent, respectively. Individually, the two-year, private institution type had 91.7 percent *not found*. However, it is important to consider that many of these institutions are for-profit career and technical schools which offer programs and training for non-traditional students.

TABLE 3
PARENTAL NOTIFICATION
FOR A DRUG AND ALCOHOL VIOLATION
BY TYPE OF POST-SECONDARY INSTITUTION AND PERCENTAGE¹
FOR PENNSYLVANIA
2008-2009 SCHOOL YEAR

| Type | Yes | No | Maybe | Not Found |
|-----------------|------|--------|-------|-----------|
| 2-year, public | 0.0% | 100.0% | 0.0% | 0.0% |
| 2-year, private | 8.3 | 0.0 | 0.0 | 91.7 |
| 4-year, public | 44.4 | 22.2 | 33.3 | 0.0 |
| 4-year, private | 26.7 | 16.7 | 46.7 | 10.0 |
| Total | 20.9 | 26.7 | 23.3 | 29.1 |

1. Percentages are calculated from a total of 86 post-secondary institutions.

Source: The data in this table was provided by Joint State Government Commission staff.

Nationally, only 14.7 percent of the 109 post-secondary institutions examined specifically stated parents will be notified in cases of drug and/or alcohol violations. See Table 4. The highest percentage of *yes* was found in the four-year, public institution type, similar to Pennsylvania. The total *no* category was more than double the *yes*, at 33.0 percent, with the highest individual percentage found in the two-year, public institution type. The total *maybe* and *not found* categories were also similar to Pennsylvania with 20.2 percent and 32.1 percent, respectively.

TABLE 4
PARENTAL NOTIFICATION
FOR A DRUG AND ALCOHOL VIOLATION
BY TYPE OF POST-SECONDARY INSTITUTION AND PERCENTAGE¹
FOR THE UNITED STATES
2008-2009 SCHOOL YEAR

| Type | Yes | No | Maybe | Not Found |
|-----------------|------|-------|-------|-----------|
| 2-year, public | 6.9% | 55.2% | 13.8% | 24.1% |
| 2-year, private | 0.0 | 21.4 | 7.1 | 71.4 |
| 4-year, public | 41.2 | 35.3 | 17.6 | 5.9 |
| 4-year, private | 14.3 | 22.4 | 28.6 | 34.7 |
| Total | 14.7 | 33.0 | 20.2 | 32.1 |

1. Percentages are calculated from a total of 109 post-secondary institutions.

Source: The data in this table was provided by Joint State Government Commission staff.

PARENTAL ACCESS TO EDUCATIONAL RECORDS WITHOUT STUDENT CONSENT

STATE LAWS

Senate Resolution 243 directs the JSGC to determine “whether and to what extent states through statute or regulation require institutions . . . to provide parents personal information from the student’s records without the student’s consent when the information is necessary to protect the health and safety of the student or other individuals;”

Although FERPA allows post-secondary institutions to release information to parents when the health or safety of their son or daughter, or other individuals, is potentially at risk, it appears that there are no states which *require* an institution to take any specific action in such circumstances.⁴⁹

As referenced in the chapter regarding drug and alcohol violations, Virginia requires public institutions of higher education to establish policies and procedures requiring the release of the educational record of a dependent student to his or her parent. However, even Virginia’s statute is silent in regard to the provision of information to parents when such information is necessary to protect the health and safety of the student or other individuals.⁵⁰

Consequently, it remains entirely within the purview of individual institutions whether or not to include parents as “appropriate persons” in accordance with the FERPA amendments of 1998.

⁴⁹ Based, in part, on a document prepared for the Joint State Government Commission by The Education Commission of the States entitled “Student Records/Rights,” July 29, 2008.

⁵⁰ VA. CODE ANN. Section 23-9.2:3 (D) (2008) at: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+23-9.2C3>.

METHODOLOGY

Senate Resolution 243 of 2008 asked the JSGC to determine if post-secondary institutions within a representative sample have policies or practices regarding parents' access to their son or daughter's education records, without the student's consent, in cases where the health and safety of the student or others are compromised.⁵¹ Using the method discussed in a previous chapter, staff first looked at the access to records policies at each of the 195 post-secondary institutions selected to be a part of the representative sample of institutions throughout Pennsylvania and the nation.

Similar to the previous Chapter's research regarding parental notification of drug and alcohol violations, staff concentrated its research on what policies post-secondary institutions had in place concerning parental access to student records without student consent in cases where the health and safety of the student or others was compromised. Again, due to limited time and resource constraints, staff had to limit its research to what was available on the institutions' websites. Similar to the results found regarding parental notification of drug and alcohol violations, staff discovered that not all schools publish their full policy online.⁵² Furthermore, institutions that provided these policies online did not always put these policies in an area of the website that was easily located. Policies regarding parents' access to student education records were found on institution websites' course catalogs; student handbooks; admissions, registrations, and health services sections; as well as other less obvious sections of the institutions' websites.

Despite the issues encountered with finding many policies regarding parental access to student educational records without consent when health and safety are a concern, staff were able to categorize all 195 institutions within the representative sample of institutions as either *yes*, *maybe*, *no* or *not found* in answer to the following question: *Do parents have access to their IRS dependent son or daughter's education records without student consent in cases where the health and safety of the student or others are compromised?* Below is a brief summary of what institution policies were included under each answer.

Institution policies that were included as *yes* responses to this question had policies online that specifically stated parents have access to records when the health or safety of their son or daughter or others are compromised.

⁵¹ While SR 243 did not specifically define what type of parent could have access to their son or daughter's records without student permission, JSGC staff assumed that the writers of the Resolution meant parents with students over the age of 18 and still considered a dependent on their parents' Internal Revenue Service (IRS) tax forms.

⁵² There were also two very small religious, post-secondary institutions for whom staff could locate no website.

Institution policies that were recorded as a *maybe* to the question of parent access to records had policies online that stated one of the following:

- Policy states that parent(s) may or may not have access to records, but it does not mention the health or safety of the student or others as a reason for disclosure. Technically, under these types of policies, the parent may discover health and safety concerns relating to their son or daughter by reviewing their son or daughter's education records, but health and safety may not have been the reason why the parent(s) obtained access to those records in the first place.
- Policy states that the parent(s) MAY have access to records when the health and safety of their son or daughter or others are compromised. While these policies do not require parental access to records, it is quite possible that they will be granted access to the records for health and safety reasons.
- Policy states that an appropriate person MAY or WILL have access (either mentioning health and safety for the reason or not mentioning health and safety for the reason). These policies were included as a *maybe* because the appropriate person may be a parent, but it does not have to be a parent. While these policies do not absolutely mandate parental access to their child's records without student consent, it is quite possible that they may be granted access to those records.
- Policy states that no one is given access to student records without student consent except where the law or FERPA allows. FERPA allows access to educational records to appropriate persons in cases of health and safety, but it does not specifically state that parents have access to records.

Institution policies that were recorded as a *no* to the question of parent access to records had policies online that stated one of the following:

- Policy specifically states that parents DO NOT have access to records without student consent.
- Policy does not specifically grant parents access to records and does not re-affirm the rights given under FERPA. FERPA allows institutions to provide access to records by "appropriate persons" (including parents, if so designated), but does not require institutions to specifically provide parents and others access to these records with student consent.

Finally, institutions that either did not have a website or did not mention its policy concerning whether or not parents have access to student educational records without student consent online were classified under the response of *not found*.

DATA FROM THE REPRESENTATIVE SAMPLE

Using the four categories explained above (*yes, maybe, no* and *not found*), the tables below show the percentage of institutions within the representative sample that permit parents access to student records without student consent when the health and safety of the student or others are compromised.

In Pennsylvania, only 5.8 percent of the 86 post-secondary institutions examined specifically stated parents will have access to records when the health or safety of their son or daughter or others are compromised. See Table 5. The highest percentage of *yes* was found in the four-year, private institution type. The total *no* category was even lower, at 2.3 percent. The highest percentage of *no* was found in the four-year, public institution type. The total *maybe* category was clearly the highest, at 61.6 percent. Individually, the *maybe* category was the highest percentage for all institution types, except for the two-year, private. Again, this may be caused by many of the two-year, private institutions being for-profit career and technical schools which offer programs and training for non-traditional students.

TABLE 5
PARENTAL ACCESS TO RECORDS
WITHOUT STUDENT CONSENT FOR HEALTH AND SAFETY
BY TYPE OF POST-SECONDARY INSTITUTION AND PERCENTAGE¹
FOR PENNSYLVANIA
2008-2009 SCHOOL YEAR

| Type | Yes | No | Maybe | Not Found |
|-----------------|------|------|-------|-----------|
| 2-year, public | 7.1% | 0.0% | 92.9% | 0.0% |
| 2-year, private | 0.0 | 0.0 | 16.7 | 83.3 |
| 4-year, public | 0.0 | 5.6 | 88.9 | 5.6 |
| 4-year, private | 13.3 | 3.3 | 66.7 | 16.7 |
| Total | 5.8 | 2.3 | 61.6 | 30.2 |

1. Percentages are calculated from a total of 86 post-secondary institutions.

Source: The data in this table was provided by Joint State Government Commission staff.

Nationally, 11.9 percent of the 109 post-secondary institutions examined specifically stated parents will have access to records when the health or safety of their son or daughter or others is compromised. See Table 6. The highest percentage of *yes* was found in the four-year, private institution type, similar to Pennsylvania. The total *no* category was exactly the same as the *yes*, at 11.9 percent, with the highest individual percentage found in the two-year, public institution type. Similar to Pennsylvania, the total *maybe* and *not found* categories were the two highest, with 45.9 percent and 30.3 percent, respectively. Also, the *maybe* category was the highest percentage for all institution types, except for the two-year, private.

TABLE 6
PARENTAL ACCESS TO RECORDS
WITHOUT STUDENT CONSENT FOR HEALTH AND SAFETY
BY TYPE OF POST-SECONDARY INSTITUTION AND PERCENTAGE¹
FOR THE UNITED STATES
2008-2009 SCHOOL YEAR

| Type | Yes | No | Maybe | Not Found |
|-----------------|------|-------|-------|-----------|
| 2-year, public | 6.9% | 20.7% | 62.1% | 10.3% |
| 2-year, private | 7.1 | 7.1 | 0.0 | 85.7 |
| 4-year, public | 11.8 | 5.9 | 64.7 | 17.6 |
| 4-year, private | 16.3 | 10.2 | 42.9 | 30.6 |
| Total | 11.9 | 11.9 | 45.9 | 30.3 |

1. Percentages are calculated from a total of 109 post-secondary institutions.

Source: The data in this table was provided by Joint State Government Commission staff.

DRUG AND ALCOHOL ABUSE BY COLLEGE AND UNIVERSITY FACULTY

Senate Resolution 243 directed the Commission to examine the “policies and practices” of institutions of higher education regarding drug and alcohol abuse among faculty members.⁵³ Additionally, the resolution requested that the study look at the laws of each state on this issue.

FEDERAL LAWS

The issue of drug and alcohol abuse among college and university faculty must first be examined by reviewing federal laws concerning drugs and alcohol in the workplace. This chapter begins by looking at two prominent federal statutes governing controlled substance possession and use in the workplace: the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989.

The Drug-Free Workplace Act

The Drug-Free Workplace Act of 1988 (Pub. L. No. 100-690, 41 U.S.C. Chapter 10) was enacted as one component of an aggressive and comprehensive effort by the Federal government to combat the rising tide of drug and alcohol abuse by Americans. This particular Act represented a specific attempt to recognize that the abuse of drugs and alcohol in the workplace constitutes a threat to the safety of all employees as well as a danger to the individual abusing the substance.

The Act requires that all organizations that receive any Federal grant money or receive Federal contracts greater than \$100,000 provide a drug-free workplace.⁵⁴ Since the vast majority of post-secondary institutions do fall under one or both of these categories, they were required to comply with this Act. More specifically the United States Department of Labor *Elaws – Drug-Free Workplace Advisor* summarized that the Act requires all organizations covered by the Act to take the following steps:

⁵³ Senate Resolution 243, Printer’s Number 2299 page 2, lines 20-23.

⁵⁴ U.S. Department of Labor. Elaws- Drug-Free Workplace Advisor. *Drug-Free Workplace Act of 1988 Determining Coverage*,...<http://www.dol.gov/elaws/asp/drugfree/howto.htm> (12/12/08).

1. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
2. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
3. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace.
4. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
5. Impose a penalty on/or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
6. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the Act.⁵⁵

Drug-Free Schools and Communities Act Amendments of 1989

Recognizing that institutions of higher education were places where the use of drugs and alcohol was of growing concern, Congress enacted legislation to ensure that these campuses would take important measures to reduce drug and alcohol abuse by students and employees. Public Law 101-226, also known as the Drug-Free Schools and Communities Act Amendments of 1989, implemented language similar to the previously summarized Drug Free Workplace Act. However, the language in this Act and its accompanying regulations pertained specifically to institutions of higher education.

⁵⁵ Ibid.

The Act specifies that institutions of higher education are ineligible to receive federal funding of any kind unless the institution certifies to the Secretary of Education that it has implemented a program designed to prevent the use of drugs and alcohol by students and employees, including faculty members.⁵⁶

The Drug-Free Schools and Communities regulations promulgated by the Secretary of Education require that all colleges and universities provide information in writing to all students and employees about the institution's policies on drug and alcohol possession and usage.⁵⁷

Two notifications required to be presented to all students and employees in writing are: descriptions of any drug or alcohol counseling, treatment, rehabilitation, and re-entry programs available; and a clear statement that the institution will impose disciplinary sanctions on students and employees and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct.⁵⁸

The statutory and regulatory language of Public Law 101-226 makes it clear that the federal government will not tolerate the abuse of drugs and alcohol on college campuses by either students or employees. Institutions of higher education are expected to address violations swiftly and effectively and employees must know that they face significant consequences for failure to adhere to institution policies.

STATE LAWS

Commission staff was unable to identify any existing state statutes specifically referencing drug and alcohol abuse by faculty at institutions of higher education. A survey of recent state legislative activity on drug and alcohol abuse by the Education Commission of the States did not produce any proposed legislation, recently enacted statutes or promulgated regulations.⁵⁹ The most likely reason for this is that the Drug-Free Schools and Communities Act directly requires institutions of higher education to implement tough policies prohibiting the possession and use of alcohol and other controlled substances on campuses and impose tough sanctions on those employees who violate them.

⁵⁶ Public Law 101-226, 20 U.S.C, Chapter 28, Subchapter I, Part B, 1011i.

⁵⁷ U.S. Department of Education's Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, www.higheredcenter.org/mandates/dfsca (12/12/08).

⁵⁸ 20 U.S.C. 1145g and Education Department General Administrative Regulations (EDGAR) Part 86.100 (a) (2) (3) (4) (5).

⁵⁹ Education Commission of the States (ECS)
<http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&count=1&RestrictToCategory=Drugs/Alcohol>
(12/12/08).

INSTITUTIONAL POLICIES

A review of institutional alcohol and controlled substance policies reveals that the language used to educate employees is in many instances very similar, if not identical, from institution to institution, but, is presented in different ways.

For example, Penn State University's policy, contained in its employee handbook, states the following:

The use, possession, and distribution of alcoholic beverages are prohibited upon the property of the University unless specifically authorized. Also, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on University property is prohibited.

Violation of these policies will result in the imposition of disciplinary sanctions up to and including termination of employment, and referral for prosecution by the appropriate law enforcement agency.

These policies are consistent with local, state, and federal law and are in compliance with the Higher Education Act of 1965 as amended by the Drug-Free Schools and Communities Act of 1989.⁶⁰

Juniata College, a small liberal arts institution in Huntingdon, Pennsylvania, states its policy as such:

The College has a strong commitment to provide a drug and alcohol free environment. As a condition of employment all employees are required to become familiar with and adhere to the following rules and regulations:

- All employees are forbidden to use or possess illegal drugs at any time during the working day.
- Employees also are forbidden to engage in any sale or other transaction involving such substances on the employer's premises. Violators will be subject to immediate discharge.
- Corrective action, up to and including termination of employment, will be taken if any employee is under the influence of alcohol or illegal drugs on the job.
- Employees who appear to be in an impaired condition on the job may be required to submit to a test to determine whether they are under the

⁶⁰ Pennsylvania State University, "Staff Employee Handbook," Last Updated January 19, 2005, pp. 35-36, <http://www.brandywine.psu.edu/Documents/DE/staffhandbook.pdf> (1/22/09).

influence of alcohol or illegal drugs. The types of tests that may be used include breathalyzer tests, blood tests, and urinalysis.

- Any sale of illegal drugs during the workday or on the employer's premises will be treated as gross misconduct punishable by immediate discharge for the first offense.
- In addition, any employee is required, as a condition of employment, to abide by this policy and inform the College within five days if convicted of drug violations in the workplace. Such convictions must be reported to any appropriate federal contractor or grantor within 10 days.
- As required by the federal government, the College will take one of the following actions within 30 days of receiving notice that an employee has been convicted under any criminal drug statute for a workplace violation; appropriate personnel action, up to and including termination, or require employee to participate satisfactorily in a drug abuse assistance or rehabilitation program.

This policy is instituted to comply with the Drug Free Schools and Communities Act of 1989 and the Drug-Free Workplace Act of 1988. This policy will be reviewed at least every two years and will be consistently enforced.⁶¹

Shippensburg University, one of the Commonwealth's state-owned institutions, states the following as its policy for compliance with the Drug-Free Schools and Communities Act:

As required by the federal 'Drug-Free Workplace Act of 1988,' the State System of Higher Education (including Shippensburg University) hereby declares as its policy that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited at any workplace under the authority of the Board of Governors. Any employee violating the policy will be referred to the Commonwealth's employee assistance program and/or disciplined, in an appropriate manner, up to and including termination. Discipline, when appropriate, shall be taken under relevant provisions of collective bargaining agreements, Civil Service Policy, or other personnel policies adopted by the Board of Governors.

⁶¹ Juniata College, "Support Staff Policies and Procedures Manual," pp. 7-8, <http://www.juniata.edu/services/hresources/documents/SupportStaffManual01-07.pdf> (1/22/09).

In addition to the above, the University's policy is amended consistent with the Drug-Free Schools and Communities Act Amendments of 1989 to include students. Violators will be subject to the panoply of legal actions.⁶²

CONCLUSION

It would appear that states have not enacted specific statutes governing drug and alcohol abuse among faculty at institutions of higher education because of actions taken by the Federal government to enact comprehensive statutes concerning drug and alcohol abuse in the overall workplace.

The Federal Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989 are the two Federal statutes referenced in institutional policies containing language prohibiting the unlawful manufacture, distribution, dispensation, possession or use of controlled substances and the sanctions for violating the policy. As is stated in these policies, all employees, including faculty members, face possible termination for abusing controlled substances while employed at the institution.

⁶² Shippensburg University website, Office of Social Equity, Statements of Compliance, <http://www.ship.edu/about/compliance.html> (12/12/08).

PARENTAL NOTIFICATION OF DRUG AND ALCOHOL VIOLATIONS

Institutional Policies in the United States

The Senate Resolution 243 study of a national representative sampling of post-secondary institution policies on whether or not parents are notified when their son or daughter violates the institution's drug or alcohol policy revealed that overall, 15 percent of institutions do have parental notification policies where parents are notified as opposed to 33 percent of institutions that do not have such a policy listed on their website. Slightly more than 20 percent of institutions have policies indicating that they may notify parents.

Forty-one percent of four-year public institutions and 14 percent of four-year private institutions have a policy indicating that parents will be notified when a student violates the institution's drug and alcohol policy. These figures plummet to seven percent for two-year public institutions. Commission staff also researched two-year private institutions and found none that had such a policy.

The study showed that 35 percent of four-year public schools and 22 percent of four-year private schools did not have a specific policy stating parents will be notified. The results were that 55 percent and 21 percent of two-year public and private institutions nationally did not have such a policy.

A significant percentage of both four-year public institutions and four-year private institutions have policies indicating parents may be notified depending on circumstances (17 percent and 29 percent respectively).

As stated in a previous chapter, it is conceivable that there are additional institutions with parental notification policies and/or practices, but, staff was unable to research them in more depth due to the time allotted for this study. Consequently, they are listed as *not found* for the purposes of this report.

Institutional Policies in Pennsylvania

The Commission staff also examined a large sample of institutions in the Commonwealth to ascertain whether the national trends are consistent here in Pennsylvania.

The overall figures show that only 21 percent of all institutions studied have parental notification policies in which parents *are* notified of a violation of an institution's drug or alcohol policy as opposed to 27 percent which do not have such a policy and do not notify parents. Slightly more than 23 percent of institutions may notify parents.

The numbers show that 44 percent of four-year public institutions and 27 percent of four-year private institutions have policies where parents will be notified. As with the national sample, the figures for the two-year public and private schools drop precipitously to zero percent and eight percent respectively.

As for institutions in the Commonwealth without parental notification policies for drug or alcohol violations, the figures show that 22 percent of four-year public institutions and 17 percent of four-year private institutions are in this category.

Slightly less than 47 percent of four-year public institutions and 33 percent of four-year private institutions have policies where parents may be notified.

Commission staff was unable to *determine* whether such policies existed at approximately 29 percent of institutions.

Results

Where parental notification policies have been implemented, the evidence shows they have resulted in success. This has been described as a "critical tool" and a "key member in any effort" to curb drug and alcohol violations.⁶³ Since being instituted, Texas A&M's policy has "resulted in significant declines in alcohol violations and recidivism rates."⁶⁴ In addition, "Ohio University had a reduction of thirty-six percent in the number of alcohol- or drug- related cases in the first year of the parental notification policy."⁶⁵ "Likewise, Roger Williams University has seen "the repeat offense rate drop by a

⁶³ "Alerting Parents Works," June 22, 2001
<http://www.fsu.edu/~par/Media/Alerting%20parents%20works.htm> (12/5/08); Underage Drinking Enforcement Training Center, "Parental Notification Policy at Work to Curb Alcohol Violations," http://udetc.org/documents/success_stories/TX0504.pdf (12/4/08).

⁶⁴ Underage Drinking Enforcement Training Center, "Parental Notification Policy at Work to Curb Alcohol Violations," http://udetc.org/documents/success_stories/TX0504.pdf (12/4/08).

⁶⁵ Edgar Smith, "Away at College: Young, Drunk and Busted," pg.24,
<http://www.educationlawconsortium.org/forum/2005/papers/smith.pdf> (12/12/08)

third.”⁶⁶ Georgia Tech has seen a fifty percent drop in the number of letters sent home to parents since their parental notification began.⁶⁷ The University of Delaware (UD) instituted a notification policy and “has seen a dramatic drop in the rate of repeat offenses.”⁶⁸ UD’s president described the policy as “the right thing to do,” as he could not imagine consoling the family of a student that had died “then having to confess that the school knew all about their child’s problem, but chose not to inform them.”⁶⁹

Studies have also supported the practical experiences of college and university officials. The 2001 study by Bowling Green University observed that, “parental notification policies in effect for at least one full semester...had more favorable than unfavorable effects on the number of alcohol violations on campus.” Some institutions emphasized “the greatest reduction was in the number of repeat offenses on the part of students whose parents had been notified.”⁷⁰ It was also noted that parents at both public and private institutions were both “highly supportive” of such policies. The study concludes that “the strategy of notifying parents may have a positive effect on reducing campus alcohol abuse.”⁷¹

RELUCTANT NOTIFICATION AND LAX ENFORCEMENT

Despite the success of parental involvement, some schools are reluctant to adopt any form of parental notification, while some that have the threat of notification in their policies, make the statement ambiguously, with little weight. Some university administrator’s feared student’s privacy was being invaded, while others believed stringent policies would deter students from applying for admission.⁷² In addition, skeptics say “notifying parents at the first sign of trouble prevents students from learning to cope with their own problems.”⁷³ Further, some feel that the threat of notifying parents will make students “less likely to seek help for alcohol-related illnesses.”⁷⁴ While most have resisted being in *loco parentis*, some have also resisted contacting parents.⁷⁵ “Recent studies are suggesting that working with parents [is] helpful.”⁷⁶ Other

⁶⁶ “Alerting Parents Works,” June 22, 2001
<http://www.fsu.edu/~par/Media/Alerting%20parents%20works.htm> (12/5/08).

⁶⁷ Edgar Smith, *supra* note 65.

⁶⁸ Buddy T., *supra* note 28.”

⁶⁹ Mark Clayton, *supra* note 26.

⁷⁰ Carolyn J. Palmer, “Parental Notification: A New Strategy to Reduce Alcohol Abuse on Campus,” *NASPA Journal*, Vol. 38, no. 3, Spring 2001, pgs. 382-3.

⁷¹ *Ibid*, pg. 384.

⁷² Mark Clayton, *supra* note 26.

⁷³ Elizabeth Berstein, “Colleges Move Boldly On Student Drinking,” *The Wall Street Journal Online*, December 6, 2007, http://online.wsj.com/public/article_print/SB119690910535115405.html (7/16/08).

⁷⁴ *Ibid*.

⁷⁵ Inter-Association Task Force of Alcohol and Other Substance Abuse Issues, *supra* note 5.

⁷⁶ *Ibid*.

administrators have suggested that “a bit of learning from their own mistakes is an appropriate lesson for them to learn.”⁷⁷

Some universities have adopted policies, but they are structured loosely, rarely used, or applied on a case-by-case basis. Others have taken to simply restating the FERPA language from 1998 that gives the right to, but does not require that they inform parents. The University of Virginia has a policy to inform parents “only after an actual arrest, or if there is reason to believe a student’s health is in jeopardy.”⁷⁸ Point Loma Nazarene University has a tiered disciplinary response system for substance abuse violations, each of which “may include” parental notification, among other measures.⁷⁹ New York University’s policy goes so far as to state, “The decision to notify parents or legal guardians will be made according to the professional judgment of the appropriate staff.”⁸⁰ Some institutions were noted as having “a practice of notifying parents, but they did not have a written policy.”⁸¹ Augustana College, on the other hand, will only “contact a student’s parents in the event of a third violation of the college’s alcohol policy.”⁸² While other schools have no policies in place, these subjective or tiered approaches, if used sparingly, not at all, or after multiple violations, may not be strong enough to curtail this dangerous behavior.

INSTITUTIONAL RATIONALES

Senate Resolution 243 directed the Commission to examine the reasons and rationales why institutions have or do not have parental notification policies.

The Inter-Association Task Force on Alcohol and Other Substance Abuse Issues (IATF) issued a report on parental notification and cited research from the University of Minnesota on the “pros and cons” of parental notification policies.⁸³ These issues represent an accurate synopsis of the reasons or rationales stated by institutions for either notifying parents or not notifying them.

⁷⁷ Lisa Currie, University of Scranton, “Colloquy,” *The Chronicle of Higher Education*, November 3, 2006 <http://chronicle.com/colloquy/98/alcohol/06.htm> (12/9/08).

⁷⁸ Elizabeth Berstein, *supra* note 73.

⁷⁹ Point Loma Nazarene University, “Student Substance Use/Possession Policy,” <http://www.pointloma.edu/Handbook.htm> (11/3/08).

⁸⁰ New York University, “Parental Notification,” http://www.nyu.edu/residential.education/judicial/judicial_paradigm.html (11/3/08).

⁸¹ Palmer, *et al.*, *supra* note 6 at pg. 384.

⁸² Augustana College, “Alcoholic Beverages on Campus,” <http://www.augustana.edu/Documents/insideAugustana.pdf> (11/3/08).

⁸³ Inter-Association Task Force on Alcohol and Other Substance Abuse Issues, *supra* note 5.

Institutions with parental notification policies report that they choose to notify parents of a drug and alcohol policy violation by a student for any one or more of the following reasons:

- Reporting is a proactive step that increases support from parents.
- Notifying parents may reduce the abuse of alcohol by students.
- Notifying parents may increase the involvement of parents in student-related problems.
- Notifying parents assists the institution in proactively notifying parents of problems that could become worse, if they persist.
- Notifying parents sends the message to parents and students that the institution takes the issue of drug and alcohol abuse seriously.
- Notifying parents initiates a dialogue which may enable an institution to acquire important information about an at-risk student which may allow the institution to better respond to the student's issues.
- Notifying parents can potentially save some students from more serious consequences later.
- Notifying parents better helps them be good parents.⁸⁴

The IATF also stated reasons why some institutions choose not to notify parents of drug and alcohol violations by students. These reasons include the following:

- There are logistical problems with how and when to get the information out to parents.
- Notifying parents is contrary to "student development theory."
- Students in the 18-21 years of age category should be treated as adults.
- Notifying parents may unnecessarily interrupt a student's educational progress.
- Institutions already have the right to notify parents for life-threatening situations and arrests are already public information.
- Notifying parents treats some students differently. Residential students would be more at-risk for being reported to parents.
- Notifying parents could change the character/focus of resident assistants and other peer leaders.
- There is insufficient data to verify that parental notification is effective.
- Parental notification is expensive and defers necessary resources from other efforts.
- Parental notification is a very simplistic solution to a complex problem.
- Notifying parents would change the relationship between the student and the faculty/staff.⁸⁵

⁸⁴ Ibid.

⁸⁵ Ibid.

Staff found, both nationally and within the Commonwealth, many of the same reasons and rationales as to why institutions of higher education choose either to notify or not notify parents when a student commits a violation of the institution's drug and alcohol policy.

Many institutions with specific parental notification policies provided specific policy statements explaining why they choose to notify or not notify parents. What follows are some examples identified by staff.

The University of Pennsylvania has a detailed parental notification policy stating that parents may be notified in such cases as when there is an emergency or serious injury involving a student or, at the discretion of the university, when there is a violation of the alcohol and drug policy.⁸⁶ The university's philosophy can be ascertained from the following statement preceding the policy itself: "...The University does not take on a parental role in relation to its students but rather assumes that students are young adults who can make their own decisions and take basic responsibility for their own lives..."⁸⁷

The University of Pittsburgh makes it clear that parents will be notified when a student violates the institution's drug and alcohol policy. Its rationale is quite clear and reflects two of the reasons stated in the research by the IATF.

...It is intended as an educational strategy, to enable parents/guardians to partner with appropriate University representatives to reduce the risk of University students developing patterns of behavior that could jeopardize their academic success or health and well-being. It is also intended to empower parents/guardians to help to reduce drug and alcohol abuse on campus...⁸⁸

As an example of an institution that does not notify parents, Cheyney University states in the student handbook the following:

A student, who is legally an adult, is expected to notify his or her parent(s) or guardian of the charges, and such parent(s) or guardians may request a conference with Cheyney University officials, but only with the written approval of the student and in his/her presence. Absent such permission and due to federal regulations, which dictate the privacy of a student's educational record, Cheyney University officials will not discuss the matter.⁸⁹

⁸⁶ Parental Notification Policy, University of Pennsylvania website, www.vpul.upenn.edu/alcohol/policy3.html (12/18/08).

⁸⁷ Ibid.

⁸⁸ Appendix E: Parental Notification for Student Misconduct, University of Pittsburgh Student Code of Conduct and Judicial Procedures, <http://www.studentaffairs.pitt.edu/conduct/pdf/code.pdf> (12/18/08).

⁸⁹ Cheyney University, Student Handbook, p. 79, <http://www.cheyney.edu/documents/pdf/StudentHandbook2005-2007.pdf> (12/18/08).

PARENTAL ACCESS TO EDUCATIONAL RECORDS WITHOUT CONSENT

Senate Resolution 243 asked the commission to examine the extent to which institutions of higher education have policies or practices for disclosing personal information to parents from a student's educational record without his or her consent if the information is deemed necessary to protect the health and safety of the student or others.

As found in Table 6 on page 31 of the report, only 12 percent of all the institutions included in the national sample had policies listed on their website specifically stating that parents have access to records without the student's consent in health or safety emergencies. The figures for four-year private institutions and four-year public institutions were 16 percent and 12 percent respectively as opposed to only seven percent for both two-year public and private institutions.

Another 12 percent of the institutions nationally indicate that parents are not likely to have access to a student's personal information without the consent of the student. The largest percentage of schools prohibiting access to such information was two-year public institutions (21 percent). Only six percent of four-year public institutions prohibit such access.

In Pennsylvania, six percent of all institutions studied permit parents access to personal information without the student's consent and two percent prohibit such access. An overwhelming 62 percent may allow access, but, the written policies studied by commission staff were unclear as to the extent of the access and under what circumstances.

Both nationally and in the Commonwealth, two-year institutions were less likely to have expressly stated policies listed on their websites. Of the national two-year institutions studied, seven percent of both public and private schools permit parents to have access. Almost 21 percent of two-year public institutions specifically prohibit parents from accessing records without the student's consent.

Staff was unable to find written policies on institution websites for 86 percent of two-year private schools nationally and 83 percent in Pennsylvania. These institutions have a vastly different clientele than do most of the other institutions studied with many of their students being "non-traditional" (21 years of age or older). Therefore, it is understandable that they would find parental access policies unnecessary.

Institutional Rationales

As stated earlier in this report, FERPA permits colleges and universities to allow parents access to educational records without the student's consent if the student has a health or safety emergency or is a threat to the physical well-being of others. Much the same as policies allowing the notification of parents about a student's violation of the institution's drug and alcohol policy, there are a variety of reasons cited by institutions for allowing access to parents to educational records without consent.

Haverford College, a small, liberal arts college located just outside of Philadelphia, may contact parents "in cases where the health or physical well-being of a student or academic status is perceived to be in imminent and serious danger, or a student is placing other students or community members at similar risk..."⁹⁰

The college provides a newsletter for parents as a primary way to keep parents informed of activities and events on the campus where their student is enrolled. In the September 2006 edition of the Founders Green editor Pamela Brownstein authored an article detailing how parental notification, including access to records, works at Haverford and why it is implemented in the manner described.⁹¹

According to Brownstein,

"Haverford's goal is to maintain the students' independence and its policy reserves parental notification for the exceptional or worrisome situation, a stance shaped in part by the school's small size and close interaction among administrators, faculty, staff and students."⁹²

Haverford's rationale for its "may" policy is quite common and is frequently cited by other institutions as a reason for possibly granting access to parents. As the data make clear, most institutions fall into the *maybe* category in regard to allowing parents access to educational records without consent.

Steven J. Watter, senior associate dean of the college and dean of student life provides an overall explanation of the rationale behind Haverford's parental notification and access policy by stating that "We're trying to foster communication and development of an adult relationship between student and parents."⁹³

4. ⁹⁰ Brownstein, Pamela, "How Parental Notification Works," *Founders Green*, September 2006, p.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid.

Penn State University has a very detailed parental notification and access policy. The goals of the policy are as follows:

- To be proactive by identifying an additional point of intervention.
- To have parents feel we are “partners” with them in support of their son or daughter.
- ***To identify specific types of “at-risk” behaviors at a specific threshold (not solely alcohol or drug incidents) at which we notify parents and others.*** [emphasis added]
- To educate students about the impact that inappropriate choices have on other “stakeholders” in regards to their education and positive growth.
- To utilize the impacts of family intervention for deterring further misconduct.⁹⁴

Penn State’s policy rationale is typical of those institutions that do notify parents and provide access to information. It reflects a desire for the institution to be a “partner” with parents in providing students with a safe learning environment.

York College of Pennsylvania has a policy expressly prohibiting parental access to educational records without the student’s consent unless the student is financially dependent.⁹⁵ As stated in the student handbook:

Parental rights of access to educational records depend on the student’s financial status, either dependent or independent. If the adult student is financially independent, parents have no right of access without the student’s consent. If, however, the student is a financial dependent, a parent/guardian’s request for educational records is honored by York College.⁹⁶

Commission staff’s review of institutional policies on access to student records without consent often found that institutions take a legalistic approach in denying parents access to student records without consent. In other words, unless a student is deemed a dependent, the parents are denied access to records without consent, even if there is an immediate threat to the student’s well being or that of other individuals.

⁹⁴ Penn State University, Parental Notification Policy, <http://www.sa.psu.edu/ja/parental.shtml> (12/18/08).

⁹⁵ York College of Pennsylvania, Student Records section of the Student Handbook, p. 34. <http://www.ycp.edu/download/YCPStudentHandbook2008.pdf> (12/18/08).

⁹⁶ Ibid.

COLLEGE FACULTY – DRUG AND ALCOHOL ABUSE

Senate Resolution 243 includes language directing the Joint State Government Commission to: “...include in its study an examination of the laws of each state and school policies and practices regarding drug and alcohol abuse among faculty at institutions of higher education...”⁹⁷

Commission staff enlisted the assistance of the National Conference of State Legislatures and the Education Commission of the States with this directive of the resolution. Neither of the two research organizations nor the research conducted by staff identified any specific state statutes or regulations governing drug and alcohol abuse by faculty at institutions of higher education.

An earlier chapter contains a detailed examination of the two pertinent Federal statutes regarding drug and alcohol use in the workplace: the Drug-Free Workplace Act (Pub. L. No. 100-690) and the Drug-Free Schools and Communities Act Amendments of 1989 (Pub. L. No. 101-226).

The 1989 amendments (Pub. L. No. 101-226) require all institutions of higher education to establish policies to ensure that their campuses are drug free, including the imposition of sanctions against employees, including faculty members, who violate the provisions of the policy.⁹⁸

A review of institutional policies nationally and within the Commonwealth found that the sanctions against employees violating the drug-free campus policies were extremely similar in nature and even in wording. Sanctions ranged from written reprimands and referral to an employee assistance program to suspension and termination of employment.

⁹⁷ Senate Resolution 243, Printer’s Number 2299, page3, lines 21-23.

⁹⁸ Public Law 101-226, 20 U.S.C, Chapter 28, Subchapter I, Part B, §1011i.

APPENDICES

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APPENDIX A

SENATE RESOLUTION 243 OF 2008, PR'S NO. 2299

PRIOR PRINTER'S NO. 1786

PRINTER'S NO. 2299

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 243 Session of
2008

INTRODUCED BY DINNIMAN, O'PAKE, D. WHITE, BOSCOLA, COSTA, FERLO,
FONTANA, KITCHEN, LAVALLE, MELLOW, RHOADES, TOMLINSON,
WASHINGTON, C. WILLIAMS, EARLL AND LOGAN, FEBRUARY 19, 2008

AS AMENDED, JULY 3, 2008

A RESOLUTION

1 Directing the Joint State Government Commission to conduct a
2 study to examine state law and school policies and practices
3 regarding the notification of parents when a student violates
4 a public or private institution of higher education's drug
5 and alcohol policy.

6 WHEREAS, Drug and alcohol abuse and addiction have
7 devastating health and social consequences that adversely affect
8 this Commonwealth and the nation; and

9 WHEREAS, Drug and alcohol abuse and addiction are recognized
10 as two of the most serious problems confronting this
11 Commonwealth and the nation; and

12 WHEREAS, In many of the occurrences of drug and alcohol abuse
13 by a student, family members are unaware of the substance abuse;
14 and

15 WHEREAS, Timely notification of parents of students at public
16 and private institutions of higher education would inform the
17 parents regarding the student's potential drug and alcohol
18 problems and enable parents to respond to situations where such
19 information is necessary to protect the health and safety of the

1 student or other individuals; and

2 WHEREAS, Any notification of parents of students by such
3 institutions of higher education with personal information
4 regarding a university or college student must comply with
5 Federal, State and local laws regarding the privacy of student
6 information; ~~therefore be it~~ AND <—

7 WHEREAS, INSTITUTIONS THAT UPHOLD STRICT STANDARDS
8 PROHIBITING DRUG AND ALCOHOL ABUSE BY FACULTY MEMBERS SHOULD
9 PROVIDE PARENTS AND STUDENTS INFORMATION THAT MAY BE NECESSARY
10 TO THE HEALTH AND SAFETY OF THE STUDENT; THEREFORE BE IT

11 RESOLVED, That the Senate direct the Joint State Government
12 Commission to conduct a study to examine the laws of each state
13 of the United States and the policies and practices of a
14 representative sample of public and private institutions of
15 higher education located in the United States, including this
16 Commonwealth, regarding the notification of parents of students
17 for the purposes set forth in this resolution; and be it further

18 RESOLVED, That the Joint State Government Commission include
19 in its study such determinations, whether and to what extent
20 states through statute or regulation require institutions to
21 provide parents notification of a violation of the institution's
22 drug or alcohol policy by the student or to provide parents
23 personal information from the student's records without the
24 student's consent when the information is necessary to protect
25 the health and safety of the student or other individuals; and
26 be it further

27 RESOLVED, That the Joint State Government Commission include
28 in its study whether the institutions included in the
29 representative sample have adopted or enacted a policy or
30 practice for providing parents notification of a violation of

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- 2 -

1 the institution's drug and alcohol policy by the student; and be
2 it further

3 RESOLVED, That the Joint State Government Commission include
4 in its study whether and to what extent institutions included in
5 the representative sample have a policy or practice for the
6 disclosure of personal information from a student's educational
7 records without the student's consent to the student's parents,
8 who are deemed appropriate persons by the institution, where
9 such information is necessary to protect the health and safety
10 of the student or other individuals; and be it further

11 RESOLVED, That the Joint State Government Commission include
12 in its study a summary of the reasons or rationales provided by
13 institutions in the representative sample for either having
14 established a policy or practice for parental notification for a
15 drug and alcohol policy violation by a student or for the
16 disclosure of student personal information without consent to
17 protect the health and safety of the student or other
18 individuals or for not having such a policy or practice; and be
19 it further

20 RESOLVED, THAT THE JOINT STATE GOVERNMENT COMMISSION INCLUDE <—
21 IN ITS STUDY AN EXAMINATION OF THE LAWS OF EACH STATE AND SCHOOL
22 POLICIES AND PRACTICES REGARDING DRUG AND ALCOHOL ABUSE AMONG
23 FACULTY AT INSTITUTIONS OF HIGHER EDUCATION; AND BE IT FURTHER

24 RESOLVED, That the Joint State Government Commission compile
25 a report to summarize the determinations reached in the study
26 and submit the report to the Senate no later than December 1,
27 2008, or six months after enactment of this resolution,
28 whichever is later.

APPENDIX B
PENNSYLVANIA POST-SECONDARY
INSTITUTIONS STUDIED FOR THIS REPORT

| Name of Institution, Town & State | Institution Type | Location |
|---|------------------|----------|
| Albright College, Reading, PA | 4-year, private | city |
| Alvernia College, Reading, PA | 4-year, private | city |
| Arcadia University, Glenside, PA | 4-year, private | suburb |
| Bloomsburg University of Pennsylvania, Bloomsburg, PA | 4-year, public | town |
| Bucks County Community College, Newtown, PA | 2-year, public | suburb |
| Buck's County School of Beauty Culture Inc., Feasterville, PA | 2-year, private | suburb |
| Butler County Community College, Butler, PA | 2-year, public | town |
| California University of Pennsylvania, California, PA | 4-year, public | town |
| Calvary Baptist Theological Seminary, Lansdale, PA | 4-year, private | suburb |
| Cambria Rowe Business College, Johnstown, PA | 2-year, private | city |
| Cambria Rowe Business College, Indiana, PA | 2-year, private | town |
| Cheyney University of Pennsylvania, Cheyney, PA | 4-year, public | rural |
| CHI Institute-Broomall, Broomall, PA | 2-year, private | suburb |
| Clarion University of Pennsylvania, Clarion, PA | 4-year, public | town |
| Community College of Allegheny County, Pittsburgh, PA | 2-year, public | city |
| Community College of Beaver County, Monaca, PA | 2-year, public | suburb |
| Community College of Philadelphia, Philadelphia, PA | 2-year, public | city |
| Consolidated School of Business, York, PA | 2-year, private | city |
| Delaware County Community College, Media, PA | 2-year, public | suburb |
| Du Bois Business College, Du Bois, PA | 2-year, private | rural |
| Duquesne University, Pittsburgh, PA | 4-year, private | city |
| East Stroudsburg University of Pennsylvania, East Stroudsburg, PA | 4-year, public | town |
| Edinboro University of Pennsylvania, Edinboro, PA | 4-year, public | town |
| Elizabethtown College, Elizabethtown, PA | 4-year, private | town |
| Erie Business Center – South, New Castle, PA | 2-year, private | town |
| Franklin and Marshall College, Lancaster, PA | 4-year, private | suburb |
| Gannon University, Erie, PA | 4-year, private | city |
| Gratz College, Melrose Park, PA | 4-year, private | suburb |
| Grove City College, Grove City, PA | 4-year, private | town |
| Harrisburg Area Community College, Harrisburg, PA | 2-year, public | city |
| Haverford College, Haverford, PA | 4-year, private | suburb |
| Indiana University of Pennsylvania, Indiana, PA | 4-year, public | town |
| International Institute for Restorative Practice, Bethlehem, PA | 4-year, private | city |
| ITT Technical Institute – Pittsburgh, Pittsburgh, PA | 2-year, private | suburb |
| Juniata College, Huntingdon, PA | 4-year, private | town |
| Keystone College, La Plume, PA | 4-year, private | rural |
| Kutztown University of Pennsylvania, Kutztown, PA | 4-year, public | town |
| Lackawanna College, Scranton, PA | 2-year, private | City |
| Lansdale School of Business, North Wales, PA | 2-year, private | suburb |

| Name of Institution, Town & State | Institution Type | Location |
|---|-------------------------|-----------------|
| Laurel Business Institute (Business Institute of PA), Sharon, PA | 2-year, private | suburb |
| Lehigh Carbon Community College, Schnecksville, PA | 2-year, public | rural |
| Lincoln Technical Institute, Philadelphia, PA | 2-year, private | city |
| Lincoln University of Pennsylvania, Lincoln University, PA | 4-year, public | rural |
| Lock Haven University of Pennsylvania, Lock Haven, PA | 4-year, public | town |
| Lutheran Theological Seminary at Gettysburg, Gettysburg, PA | 4-year, private | town |
| Luzerne County Community College, Nanticoke, PA | 2-year, public | suburb |
| Lycoming College, Williamsport, PA | 4-year, private | city |
| Manor College, Jenkintown, PA | 2-year, private | suburb |
| Mansfield University of Pennsylvania, Mansfield, PA | 4-year, public | rural |
| Messiah College, Grantham, PA | 4-year, private | suburb |
| Millersville University of Pennsylvania, Millersville, PA | 4-year, public | suburb |
| Montgomery County Community College, Blue Bell, PA | 2-year, public | suburb |
| Northampton County Community College, Bethlehem, PA | 2-year, public | suburb |
| Orleans Technical Institute – Court Reporting Program, Philadelphia, PA | 2-year, private | city |
| Pennsylvania State University, University Park, PA | 4-year, public | suburb |
| Pennco Tech, Bristol, PA | 2-year, private | suburb |
| Pennsylvania Academy of the Fine Arts, Philadelphia, PA | 4-year, private | city |
| Pennsylvania College of Optometry, Elkins Park, PA | 4-year, private | suburb |
| Pennsylvania Highlands Community College, Johnstown, PA | 2-year, public | rural |
| Pennsylvania School of Business, Allentown, PA | 2-year, private | city |
| Philadelphia College of Osteopathic Medicine, Philadelphia, PA | 4-year, private | city |
| Philadelphia University, Philadelphia, PA | 4-year, private | city |
| Pittsburgh Technical Institute, Oakdale, PA | 2-year, private | rural |
| PJA School, Upper Darby, PA | 2-year, private | suburb |
| Reading Area Community College, Reading, PA | 2-year, public | city |
| Robert Morris University, Moon Township, PA | 4-year, private | suburb |
| Rosemont College, Rosemont, PA | 4-year, private | suburb |
| Saint Vincent College, Latrobe, PA | 4-year, private | suburb |
| Shippensburg University of Pennsylvania, Shippensburg, PA | 4-year, public | town |
| Slippery Rock University of Pennsylvania, Slippery Rock, PA | 4-year, public | rural |
| South Hills School of Business and Technology, State College, PA | 2-year, private | city |
| Temple University, Philadelphia, PA | 4-year, public | city |
| The Curtis Institute of Music, Philadelphia, PA | 4-year, private | city |
| Triangle Tech Inc. – Greensburg, Greensburg, PA | 2-year, private | suburb |
| Triangle Tech Inc. – Pittsburgh, Pittsburgh, PA | 2-year, private | city |
| Trinity Episcopal School for Ministry, Ambridge, PA | 4-year, private | suburb |
| Tri-State Business Institute, Erie, PA | 2-year, private | suburb |
| University of Pennsylvania, Philadelphia, PA | 4-year, private | city |
| University of Phoenix – Harrisburg Campus, Harrisburg, PA | 4-year, private | suburb |
| University of Pittsburgh, Pittsburgh, PA | 4-year, public | city |
| Valley Forge Military College, Wayne, PA | 2-year, private | suburb |
| West Chester University of Pennsylvania, West Chester, PA | 4-year, public | suburb |
| Westmoreland County Community College, Youngwood, PA | 2-year, public | suburb |
| Winner Institute of Arts and Sciences, Transfer, PA | 2-year, private | rural |
| York College of Pennsylvania, York, PA | 4-year, private | city |

APPENDIX C
UNITED STATES POST-SECONDARY
INSTITUTIONS STUDIED FOR THIS REPORT

| Name of Institution, Town & State | Institution Type | Location |
|---|------------------|----------|
| Academy of Court Reporting-Cincinnati, Cincinnati, OH | 2-year, private | city |
| Aims Community College, Greeley, CO | 2-year, public | city |
| Air Force Institute of Technology - Graduate School of Engineering & Management, Dayton, OH | 4-year, public | suburb |
| American Intercontinental University Online, Hoffman Estates, IL | 4-year, private | rural |
| American Public University System, Charles Town, WV | 4-year, private | town |
| American University, Washington, DC | 4-year, private | city |
| Art Center College of Design, Pasadena, CA | 4-year, private | city |
| The Art Institute of Tucson, Tucson, AZ | 4-year, private | city |
| Augustana College, Rock Island, IL | 4-year, private | city |
| Beth Medrash Govoha, Lakewood, NJ | 4-year, private | suburb |
| Blackfeet Community College, Browning, MT | 2-year, public | rural |
| Brown Mackie College-Akron, Akron, OH | 2-year, private | city |
| Brown Mackie College-Atlanta, GA | 2-year, private | suburb |
| California Institute of Integral Studies, Bakersfield, CA | 4-year, private | rural |
| California State University-Monterey Bay, Seaside, CA | 4-year, public | rural |
| City Colleges of Chicago-Harry S Truman College, Chicago, IL | 2-year, public | city |
| CUNY New York City College of Technology, Brooklyn, NY | 4-year, public | city |
| Delaware Technical. and Community College-Stanton-Wilmington, Newark, DE | 2-year, public | suburb |
| Dine College, Tsaile, AZ | 2-year, public | rural |
| Dyersburg State Community College, Dyersburg, TN | 2-year, public | town |
| Everest University-Melbourne, Melbourne, FL | 4-year, private | city |
| The Fashion Institute of Design & Merchandising-Los Angeles, CA | 4-year, private | city |
| Fielding Graduate University, Santa Barbara, CA | 4-year, private | city |
| Five Towns College, Dix Hills, NY | 4-year, private | suburb |
| Fuller Theological Seminary in California, Pasadena, CA | 4-year, private | city |
| Gateway Community College, New Haven, CT | 2-year, public | city |
| Globe University, Woodbury, MN | 4-year, private | suburb |
| Henderson State University, Arkadelphia, AR | 4-year, public | town |
| Heritage Institute-Jacksonville, Jacksonville, FL | 2-year, private | city |
| Houston Community College System, Houston, TX | 2-year, public | city |
| Howard Payne University, Brownwood TX | 4-year, private | town |
| Indian Hills Community College, Ottumwa, IA | 2-year, public | town |
| Indiana Business College-Columbus, IN | 2-year, public | rural |
| ITT Technical Institute-Chantilly, VA | 4-year, private | suburb |
| ITT Technical Institute-Chattanooga, TN | 4-year, private | city |
| ITT Technical Institute-Lathrop, CA | 4-year, private | rural |
| ITT Technical Institute-Omaha, NE | 4-year, private | city |
| ITT Technical Institute-San Antonio, TX | 2-year, private | City |

| Name of Institution, Town & State | Institution Type | Location |
|--|-------------------------|-----------------|
| Jacksonville State University, Jacksonville, AL | 4-year, public | suburb |
| Jones International University, Centennial, CO | 4-year, private | suburb |
| Kentucky Wesleyan College, Owensboro, KY | 4-year, private | city |
| Lebanon College, Lebanon, NH | 2-year, private | town |
| Los Angeles County College of Nursing & Allied Health, Los Angeles, CA | 2-year, public | city |
| Louisiana Technical College-Ascension Campus, Sorrento, LA | 2-year, public | suburb |
| Mercy College of Northwest Ohio, Toledo, OH | 4-year, private | city |
| Meredith College, Raleigh, NC | 4-year, private | city |
| Middle Georgia College-Eastman, GA | 2-year, public | rural |
| Missouri Tech, Saint Louis, MO | 4-year, private | suburb |
| Modesto Junior College, Modesto, CA | 2-year, public | city |
| Mohave Community College, Kingman, AZ | 2-year, public | rural |
| Monroe County Community College, Monroe, MI | 2-year, public | suburb |
| Motlow State Community College, Tullahoma, TN | 2-year, public | rural |
| Mount Holyoke College, South Hadley, MA | 4-year, private | suburb |
| Muskingum College, New Concord OH | 4-year, private | town |
| Nash Community College, Rocky Mount, NC | 2-year, public | rural |
| Nashville Auto Diesel College Inc., Nashville, TN | 2-year, private | city |
| National American University-Overland Park, Overland Park, KS | 4-year, private | city |
| Nebraska Methodist College of Nursing & Allied Health, Omaha, NE | 4-year, private | city |
| New Life Theological Seminary, Charlotte, NC | 4-year, private | city |
| New York University, New York, NY | 4-year, private | city |
| Norfolk State University, Norfolk, VA | 4-year, public | city |
| Northeast Texas Community College, Mount Pleasant, TX | 2-year, public | town |
| Northern Virginia Community College, Annandale, VA | 2-year, public | suburb |
| Nova Southeastern University, Fort Lauderdale, FL | 4-year, private | suburb |
| Nyack College, Nyack, NY | 4-year, private | suburb |
| Ohio College of Massotherapy Inc., Akron, OH | 2-year, private | suburb |
| Ohio State University-Main Campus, Columbus, OH | 4-year, public | city |
| Owens Community College, Perrysburg, OH | 2-year, public | rural |
| Pacific Graduate School of Psychology, Palo Alto, CA | 4-year, private | city |
| Peace College, Raleigh, NC | 4-year, private | city |
| Platt College, Oklahoma, City, OK | 4-year, private | rural |
| Platt College-San Diego, San Diego, CA | 4-year, private | city |
| Point Loma Nazarene University, San Diego, CA | 4-year, private | city |
| Reedley College, Reedley, CA | 2-year, public | town |
| Reformation International Theological Seminary, Fellsmere, FL | 4-year, private | rural |
| Remington College-Memphis Campus, Memphis, TN | 4-year, private | city |
| Saint Louis Community College-Wildwood, Wildwood, MO | 2-year, public | rural |
| Sinte Gleska University, Mission, SD | 4-year, private | town |
| South Georgia College, Douglas, GA | 2-year, public | town |
| Southeastern Bible College, Birmingham, AL | 4-year, private | suburb |
| Southern New Hampshire University, Manchester, NH | 4-year, private | city |
| Southwest Collegiate Institute for the Deaf, Big Spring, TX | 2-year, public | town |
| Southwest Institute of Technology, Austin, TX | 2-year, private | city |
| Southwestern Christian College, Terrell, TX | 4-year, private | town |
| Saint Louis College of Health Careers, Fenton, MO | 2-year, private | suburb |

| Name of Institution, Town & State | Institution Type | Location |
|---|-------------------------|-----------------|
| SUNY College at New Paltz, New Paltz, NY | 4-year, public | town |
| SUNY College of Optometry, New York, NY | 4-year, public | City |
| SUNY Westchester Community College, Valhalla, NY | 2-year, public | suburb |
| Tabor College, Hillsboro, KS | 4-year, private | town |
| Technology Education College, Columbus, OH | 2-year, private | city |
| Texas Southern University, Houston, TX | 4-year, public | city |
| Troy University, Troy, AL | 4-year, public | town |
| Tyler Junior College, Tyler, TX | 2-year, public | city |
| United Tribes Technical College, Bismarck, ND | 2-year, private | suburb |
| Universal Technical Institute of Arizona Inc., Avondale, AZ | 2-year, private | suburb |
| University of Central Florida, Orlando, FL | 4-year, public | suburb |
| University of Nebraska Medical Center, Omaha, NE | 4-year, public | city |
| University of Phoenix-Chicago Campus, Schaumburg, IL | 4-year, private | city |
| University of Phoenix-Idaho Campus, Meridian, ID | 4-year, private | suburb |
| University of Toledo-Main Campus, Toledo, OH | 4-year, public | city |
| Valley City State University, Valley City, ND | 4-year, public | town |
| Wartburg Theological Seminary, Dubuque, IA | 4-year, private | city |
| West Virginia Junior College, Morgantown, WV | 2-year, private | city |
| West Virginia Northern Community College, Wheeling, WV | 2-year, public | city |
| Western Oklahoma State College, Altus, OK | 2-year, public | rural |
| Yeshivas Novominsk, Brooklyn, NY | 4-year, private | city |