

The Safe and Drug Free Schools & Campuses Act (Edgar Part 86) for Non-Residential Campuses

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## Creation of Drug Free Schools and Campuses Act

- Codified along with Safe and Drug Free Workplace Act in 1986
- Americans with Disabilities Act of 1990
- Initiation of Biennial Review in 1990



## DFSCA Monitoring & Compliance

- US Dept of Safe and Drug Free Schools (1990-1998)
- Office of Postsecondary Education (OPE) (1998-2010)



## Why we're specifying non-residential schools

- "DFSCA doesn't apply to community colleges"
- Only applies to residential, 4 year colleges
- There are no penalties, so its not a priority
- Very little drinking occurs on campus not an issue
- We're a religious institution our students sign contracts that they won't drink
- We're a nursing school we cover these issues in our coursework



"If you can't tell me that my university will be fined for not doing this, or anyone will not be arrested for not doing this – you're wasting my time."

Anonymous Student Affairs Senior Level Officer



#### Times Are A'Changin!



#### Kristine Guest



Paul Smith College February 6, 2005 http://compelledtoact.com/



## DFSCA Monitoring & Compliance

 Office of Federal Student Aid (2010 – Present)



## March 2012 Monitoring and Compliance Report

- OPE Performed No Oversight Activities from 1998 to June 2010
- FSA's Oversight Process Provided No Assurance That IHEs Are in Compliance with Part 86 Requirements
- IHEs That Do Not Participate in Title IV, HEA Programs Were Not Covered by FSA's Oversight Process Even Though They Are Covered by Title I of the HEA



## March 2012 Monitoring and Compliance Report

- 18/23 reviews, lack of documentation to support FSA's conclusions that IHEs were in DFSCA compliance.
- 10/23 reviews, indications that FSA reviewers did not fully understand DFSCA requirements, reviewers concluded that IHEs had complied with certain DFSCA requirements despite documentation to the contrary.
- 4/23 reviews, FSA reviewers documented that IHEs were not in compliance with elements of Part 86 requirements but did not report the IHEs' noncompliance in the corresponding program review report.



## New DFSCA Monitoring and Compliance

- Office of the President Letter Fall 2011
- Monitoring and compliance administered by the Clery Compliance Division
- Increased number of schools reporting being audited for DFSCA



## New DFSCA Monitoring and Compliance

- Audits are being conducted through 1 of 2 methods
  - Full Program Review
  - Clery Compliance



## New DFSCA Monitoring and Compliance

- 263 publically-available Clery program reviews completed by ED since 2014
  - 50 institutions were found to be out of compliance with DFSCA in the last 2 years
  - 5 of those institutions being fined as a result.
- The National Association of Clery Compliance Officers and Professionals (NACCOP)



## Schools Found in Violation - 2015

- Century College (MN)
- Graham Hospital College of Nursing (IL)
- Massachusetts Bay Community College
- Marshall University (WV)
- McDaniel College (MD)
- Montgomery College (MD)
- Ohlone College (CA)
- Rosemont College of the Holy Child Jesus (PA)



#### Consequences

- DFSCA Noncompliance Findings
- Corrective Actions Required
- Monetary Fines for DFSCA Alone - \$10,000 - \$35,000



## Main Elements of DFSCA



## Certification Requirements

Part 86, the Drug-Free Schools and Campuses Regulations, requires that, **as a** condition of receiving funds or any other form of financial assistance under any federal program, an institution of higher education (IHE) must certify that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees.



## What Does Certification Mean?

- For certain forms of federal funding and assistance, IHE's must certify compliance.
- In most cases, certification is included within the "Representations and Certifications" portion of funding applications and proposals



## Presidential/Senior Administrator Certification

- IHE's must also have the senior leading administrator (President) certify
  - minimally every five years
  - Upon the arrival of a new senior leading administrator



#### Edgar 86 Minimum Requirements

- Annual notification/distribution of substance abuse policy and information to all students, staff and faculty.
- Development and implementation of a program to prevent the unlawful possession, use or distribution of illicit drugs or alcohol by students **and** employees.
- Prepare a **biennial report** on the effectiveness of its alcohol and other drug (AOD) programs and the consistency of policy enforcement



#### **Additional Requirements**

- If requested, IHE's are required to submit written certification and/or copies of policy/information distributed annually, as well as copies of the biennial review to the Secretary of Education – Federal Student Aid designees.
  - Auditors inspecting Financial Aid records
  - Auditors inspecting Clery Security Compliance
  - Auditors inspecting federally funded research grants



#### **Additional Requirements**

- The Drug-Free Schools and Campuses Regulations establish an expectation that colleges address substance abuse issues based on current research, evaluation, best practices, etc.
- Focus is on Prevention
- In finding documents & fine letters Drug and Alcohol Abuse Prevention Program (DAAPP)



#### Record Keeping Requirements

Sec.86.103 requires that IHEs retain the following records for 3 years after the fiscal year in which the record was created:

- The annually distributed notification document
- Prevention program certification
- Results of the biennial review
  - NOTE A REPORT IS NOT REQUIRED, BUT...
- Any other records reasonably related to the IHE's compliance with certification
- If selected for review, the IHE shall provide access to personnel, records, documents and any other necessary information requested by the Secretary to review the IHE's adoption and implementation of its drug prevention program



#### Failure to Comply with the Drug-Free Schools and Campuses Regulations

- Old Warning
  - Corrective action
  - May terminate all forms of financial assistance, whether from the Department of Education or other federal agencies
  - May require repayment of such assistance, including individual students' federal grants, such as Pell grants.
- New Warning
  - Corrective action
  - Additional monitoring
  - Fines currently looking at 10-35K.



## **Ensuring Compliance**



## What is meant by "Program?"



# What is meant by a program?

- Clear guidance is not really given
- Some institutions believe that notification and biennial review constitute compliance
- Current best practices and science of prevention are strongly suggested as



## Dept of Education Principles of Program Effectiveness

- base alcohol, drug, and violence prevention programs on needs assessment data
- develop measurable program goals and objectives
- implement programs with research evidence of effectiveness,
- periodically evaluate programs relative to their goals and objectives



## Experiences in Effective Prevention

U.S. Department of Education: 22 campus-based model programs (1999-2004)

Core elements of effectiveness:

- Exercise leadership
- Build coalitions
- Choose evidence-based programs
- Implement strategic planning
- Conduct a program evaluation
- >Work toward sustainability

≻Take the long view



## Field Experiences in Effective Prevention

#### U.S. Department of Education: 12 campus-based model programs (2005-2007)

- Insights on prevention programs, projects, campaigns:
  - Link prevention to the institution's mission, values, and priorities
  - Strategic planning is an ongoing, dynamic process
  - Engage the campus community in data collection and evaluation
  - Promote student involvement
  - > Pay attention to strategic timing
  - Hone communication skills



#### **The Network Standards**

- the Network is a voluntary membership organization whose member institutions agree to work toward a set of standards aimed at reducing alcohol and other drug problems at colleges and universities
- http://www.thenetwork.ws/direct ory/



#### **The Network Standards**

- Policy
- Education & Student Assistance
- Enforcement
- Assessment
- Campus/Community Collaboration



## ACHA Standards of Practice for Health Promotion within Higher Education

- Alignment with the Missions of Higher Education
- Socioecological-Based Practice
- Collaborative Practice
- Cultural Competency
- Theory-Based Practice
- Evidence-Informed Practice
- Continuing Professional Development and Service



## Council for the Advancement of Standards

- <u>http://www.cas.edu/index.php/c</u> <u>as-general-standards/</u>
- Mission
- Programming/Learning Outcomes
- Organization & Leadership
- Human Resources
- Ethics
- Law, Policy and Governance
- Diversity, Equity, and Access
- Institutional & External Relations
- Financial Resources
- Technology
- Facilities and Equipment
- Evaluation and Assessment



#### Evidence Based Programming/Strategies



## College "Alcohol Intervention Matrix"

- The goal of the CollegeAIM project was to "increase the likelihood that *research* will inform interventions to address excessive and underage drinking on US campuses by providing a framework for colleges and universities to compare and select evidence-based intervention strategies."
- Developed by a group including
  - college alcohol intervention researchers
  - college AOD and student life professionals
  - NIAAA staff
- Released fall 2015

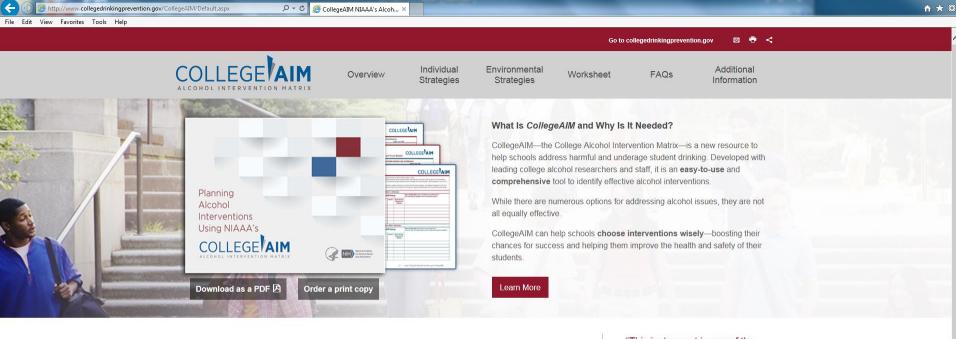


# **CollegeAIM Website**

- Overview
  - Including how to use CollegeAIM
- Individual-Level Strategies
- Environmental-Level Strategies
- PDF Strategic Planning Worksheet
- FAQs
- Supporting Resources



## **CollegeAIM Website**



#### How can schools use CollegeAIM?

With the help of CollegeAIM, school officials can:

- Review the **individual** and **environmental-level** strategies to learn how their current strategies compare to other alternatives.
- · Discover new evidence-based options.
- Use the interactive strategy planning worksheet to help select a combination of approaches that meets the needs of their campus and their budget.

#### How is CollegeAIM different?

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CollegeAlM is distinctive because of the breadth of its research and analysis, the expertise of its contributors, and its user-friendly format:

"This instrument is one of the most thoroughly vetted and userfriendly summaries of intervention strategies I have seen in decades." -Jonathan Gibralter, Ph.D. President, Wells College

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## Strategies

- Rated on cost, effectiveness, barriers to implementation, and whether or not there is research available
- Each strategy includes the ratings, staffing needs, target population, research references, and possible resources



#### Strategies

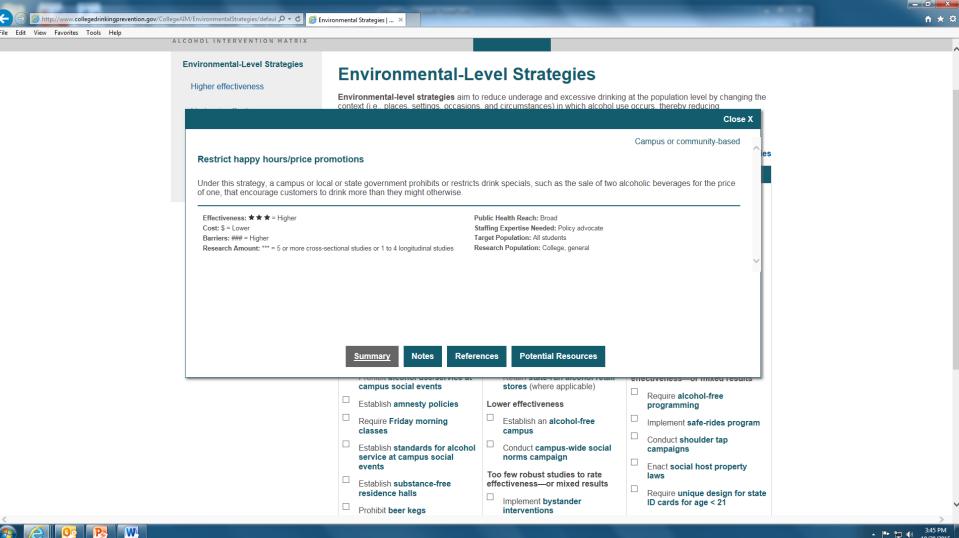
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Higher effectiveness Moderate effectiveness	Environmental-level strategies aim	to reduce underage and excessive drinkin ns, and circumstances) in which alcohol us		
Lower effectiveness	All environmental strateg	jies		
Too few robust studies to	Check all strategies you would	like to print	Print Preview Strategies	
effectiveness—or mixed	Lower costs \$	Mid-range costs \$\$	Higher costs \$\$\$	
roduta	Higher effectiveness	Higher effectiveness	Moderate effectiveness	
	Restrict happy hours/price promotions	Enforce age-21 drinking age (e.g., compliance checks)	Enact responsible beverage service training laws	
	Retain ban on Sunday sales (where applicable)         Retain age-21 drinking age         Moderate effectiveness         Retain or enact restrictions on hours of alcohol sales         Enact social host provision laws         Too few robust studies to rate effectiveness—or mixed results         Prohibit alcohol use/service at campus social events         Establish amnesty policies         Require Friday morning classes         Establish standards for alcoho service at campus social events	stores (where applicable)         Lower effectiveness         Establish an alcohol-free campus	Lower effectiveness  Restrict alcohol sponsorship and advertising  Implement beverage service training programs: Sales to intoxicated  Implement beverage service training programs: Sales to underage Enact keg registration laws Too few robust studies to rate effectiveness—or mixed results Require alcohol-free programming Implement safe-rides program Conduct shoulder tap campaigns Enact social host property laws Descript unious design for state	
	residence halls Prohibit beer kegs	Implement bystander interventions	Require unique design for state ID cards for age < 21	
-	Establish minimum age requirements to serve/sell			





#### Strategies

10/20/2015





### How to Use College AIM

- Needs Assessment
  - What does your campus and your student population need to meet your goals and objectives around alcohol?
- Review the strategies and determine what may work for your population
  - Ask yourself can your peer education group/your department plan, implement, evaluate, and sustain this strategy



#### **The Worksheet Tool**

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Priorities: Which alcohol-related issues are of m Effectiveness: Does research show that your curre Balance: Realistically assess what you can do w									
Strategy Name		idual or			ent stra		Notes and Next Steps: Keep as is? Modify to boost effectiveness?		
(and the ND or ENV identifier from CollegeAIM, if applicable)		nmental?		College	4/ <i>M</i> Ratin	gs	Add complementary strategies? Shift to more effective options?		
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	✓ <u>IND</u>	✓ <u>ENV</u>	Effectiveness	Cost	Barriers	Reach: Broad or Focused (% of students)			
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#### **Annual Notification**



## Compliance – Annual Notification

- Notification must occur annually to each employee and student
- Notification should include:
  - Standards of conduct
  - Applicable federal, state, local and institutional sanctions
  - Description of short and long term health risks
  - List of AOD prevention and treatment programs available to students, staff and faculty
  - Clear statement that IHE will impose disciplinary statements



## Standards of Conduct

- Covers all students who are registered for one course for any type of unit except continuing education
- Students who work for the institution may be covered by employee policies
- Applies to all on-campus activities and to off-campus activities officially sponsored by IHE's
- Have been interpreted to apply to student-sponsored social activities and professional meetings attended by employees



## Legal Sanctions

- A description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol
- An alcohol and drug policy should stipulate that anyone who violates the policy is subject both to the institution's sanctions and to criminal sanctions.



#### Health Risks

- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol that occurs on your campus.
- Statements of health risks associated with the use of alcohol and other drugs represent the minimum level of information that schools must distribute.



#### Health Risks Descriptions will include

- Risk of dependence
- Possible short-term effects
- Possible long-term effect
- Effects of overdose



#### Health Risks Description Considerations

- Drugs highlighted implies that these drugs are ones used by your students.
- Drugs highlighted implies that you have collected data to determine what drugs exist on your campus
- Changes to CORE Survey



## Drug & Alcohol Programs

- A description of any drug or alcohol programs that are available to employees and students . These include:
  - Prevention programs
  - Assessment/Identification
  - Intervention
  - Treatment
  - Rehabilitation
  - Re-Entry



## **Disciplinary Sanctions**

- A clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law)
- 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



## Disciplinary Sanction Enforcement

- Responsibility for the enforcement of standards of conduct is not specifically mentioned in 34 C.F.R. Part 86
- Responsibility for enforcing standards of conduct is usually shared among
  - campus police or security personnel
  - Residence hall staff
  - Judicial affairs/Dean of Students
  - health providers, faculty,
  - students, among others.



## Distribution of Annual Notification

- The Department of Education requires that each IHE distribute its AOD document to students, staff and faculty **annually in writing.**
- Delivery may be electronic **if** the IHE has established that electronic delivery **goes to the individual and** that electronic communication is one of the IHE's primary modes of communication.
- Delivery must ensure receipt
- Must demonstrate appropriate method of distributing to those whose mailings are returned or bounced back



#### Distribution of Annual Notification

- If new students enroll or new employees are hired after the annual distribution date, these students and employees must also receive the materials.
- Merely making the materials available to those who wish to take them does not satisfy the requirements of the Regulations.
- Distribution must be intentional, passive methods do not meet requirements or expectations



## Annual Distribution

#### To Students:

- The U.S. mail system is probably the best way to ensure distribution to all students.
- Electronic distribution is another option when all students or employees have access.
- Dissemination through advising when advising is mandatory
- Enclose in invoices for financial obligations

#### To Faculty & Staff, include:

- with employees' paychecks
- with the W-2 form
- In the faculty/staff handbook
- Giving the written policy to employees only at the beginning of their employment does not meet the requirement that the policy be distributed annually.

#### A COMBINATION OF METHODS WORKS BEST





- The law further requires an institution of higher education to conduct a **biennial review** of its comprehensive program to:
  - determine its **effectiveness** and implement changes if they are needed
  - ensure that the sanctions developed are consistently enforced



- The Drug-Free Schools and Campuses Regulations require IHEs to review their AOD programs and policies **every two years**.
- No specific date in which report is to be filed
- Since regulations began in 1990, common for reviews to be conducted during even years
- Review report should be completed and filed by December 31
- Review report should cover the 2 previous academic years



- Because EDGAR 86 does not specify what a biennial review should include or how it should be conducted, schools have considerable leeway in determining how to conduct and what to include in their biennial review.
- Network standards, NIAAA report, & DOE Principles of Effectiveness should be utilized in review process



## Biennial Review Best Practices

- Comprehensive program focused on evidence-based strategies of practice
- Data collection of students' behaviors and perceptions
- Program focused on meeting needs of students at various levels (drinkers, nondrinkers, problem drinkers)
- Creation of a strategic plan of action
- Creation of a task-force or campus-based coalition



## Thorough Biennial Reviews Include

- 1. A description of AOD comprehensive program/intervention elements and policies
- 2. A statement of AOD program/intervention and policy goals and a discussion of goal achievement
- 3. Summaries of AOD program/intervention and policy strengths
- 4. Summaries of AOD program/intervention and policy weaknesses and problems
- 5. Procedures for distributing AOD document to students and employees
- 6. Copies of the documents distributed to students and employees
- 7. Recommendations for revising AOD programs
- 8. Supporting documentation and evidence



## HEC Analysis – Model Biennial Reviews

- 1. Each included materials to compliment the report
- 2. Each included information on assessment and evaluation of program effectiveness
- 3. Each detailed goals and goal achievements
- 4. Each included recommendations for revising programs and policies
- 5. Each used a task force to complete the review



# Reviewing Your Current Campus AOD Data

- Collect and review data that describes alcohol and other drug problems and culture
  - CORE Survey
  - National College Health Assessment
  - Policy Violations
  - Transports
  - Diagnoses



#### Reviewing Your Current Campus AOD Prevention Program

- You must also determine the number of drug and alcohol-related incidents and fatalities that:
  - Occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities
  - Are reported to campus officials
  - Determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related incidents and fatalities on the institution's campus or as part of any of the institution's activities; and
  - Ensure that the sanctions required by paragraph (1)(E) are consistently enforced.



#### Reviewing Your Current Campus AOD Prevention Program

- Program & Interventions Inventory
- Policy Inventory



#### Typology Matrix Socioecological Model by Network Standards

	Individual	Group	Institution	Community	Policy
Policy					
Education					
Enforcement					
Assessment					
Community Mobilization					



#### Typology Matrix Socioecological Model by NIAAA Tiers

	Individual	Group	Institution	Community	Policy
Tier I – evidence with college students					
Tier II – evidence with gen populations					
Tier III - promising					
Tier IV – doesn't work					



#### Typology Matrix Socioecological Model by SAMHSA Prevention Strategies

	Individual	Group	Institution	Community	Policy
Info. Dissemination					
Education					
Alternatives					
Problem Identification/ Referral					
Community- Based Processes					
Environmental /Policy					



#### Reviewing Your Current Campus AOD Prevention Program

- Consider including process summary or performance metrics for each program/intervention:
  - # of times program/intervention delivered
  - # of students/staff/faculty participating
  - Satisfaction survey results



#### Reviewing Your Current Campus AOD Prevention Program

- Assessment data on student learning outcomes, attitudinal changes, behavior changes gained through programs
- Evaluation and Research data collected through programs



## Reviewing Your Current Campus AOD Policies

- Identify and compile all alcohol and other drug related policies for students, staff and faculty
- Look for redundancy, consistency, inconsistency in langauge



## Reviewing Your Current Campus AOD Policies

- Assess how consistently enforced are the policies
- Assess if everyone, regardless of affiliation, is held to the same policy standards and offered the same interventions
- Assess how effective are policies at moving the IHE toward its AOD goals and outcomes



## Policy Inventory

- Measuring Enforcement Consistency
  - DOE/HEC recommends submitting a chart that ID's each case and presents particulars of each offense
  - Documenting level of effort expended to detect violations
  - Document level of expertise of those responsible for detecting/adjudicating AOD offenses



#### **MIP** Violation

Case	Athlete	Fine	Paper	Presentation	BASICS
1	Ν	Х		Х	
2	Ν	Х		Х	
3	Y		Х		
4	Ν	Х		Х	
5	Ν	Х			Х
6	Ν	Х			
7	Υ		Х		
8	Ν	Х	Х		
9	Y		Х		
10	Ν				Х
11	Ν	Х			



#### Reviewing Your Current Campus AOD Prevention Program

- You must also report the number of drug and alcohol-related incidents and fatalities that:
  - Occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities
  - Are reported to campus officials
  - Determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related incidents and fatalities on the institution's campus or as part of any of the institution's activities; and
  - Ensure that the sanctions required by paragraph (1)(E) are consistently enforced.



## Determining SWOT

- Strengths
- Weaknesses
- Opportunities
- Threats



#### **Review Conclusions**

- Outcomes, goals, and objectives for the coming Biennial Period
- Recommended changes in programming, policy, and enforcement.



# IHEC Suggested Review Report Contents

- Introduction/Overview
- Biennial Review Process
- AOD Comprehensive Program Goals and Objectives for Biennium being reviewed
- Annual Policy Notification Process
- AOD Prevalence and Incidence Rate Data
- AOD Needs Assessment and Trend Data
- AOD Policy, Enforcement & Compliance Inventory & Related Outcomes/Data
- AOD Intervention Inventory & Related Outcomes/Data
- AOD Goal Achievement and Objective Achievement
- AOD Strengths and Weaknesses
- Recommendations for next Biennium
- Goals and objectives for next Biennium



## What Do I Do With the Report

- Unless requested, we currently do not send to Dept of Ed.
- Send copy to President for signature/certification
- Send signed copy to Financial Aid
- Send copy to grant's office
- Copies to places where someone would think that an alcohol report would be obtained
- Place on-line for public access



#### Questions?



## All of this information and MORE can be found on our website:

www.eiu.edu/ihec



## Eric's Contact Information

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