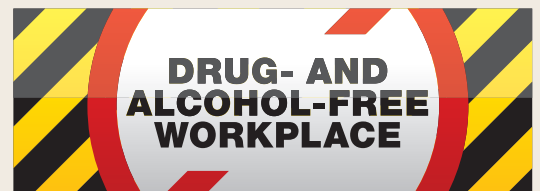


MODEL SUBSTANCE ABUSE POLICY

I pledge that my company will take reasonable action to create and maintain a workplace free from substance abuse. My company will work to increase awareness of the dangers of substance abuse within our workplace and throughout the construction industry.



Construction Coalition for a Drug- and Alcohol-Free Workplace

MODEL SUBSTANCE ABUSE POLICY

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DRUG AND ALCOHOL USE

DRUG USE/DISTRIBUTION/POSSESSION/IMPAIRMENT

All employees are prohibited from manufacturing, cultivating, distributing, dispensing, possessing or using illegal drugs at all times.¹ Included within this prohibition are lawful controlled substances that have been illegally or improperly obtained. This policy does not prohibit the possession and proper use of lawfully prescribed drugs taken in accordance with the prescription.

Employees also are prohibited from having any such illegal or unauthorized controlled substances in their system while at work.²

ALCOHOL USE/DISTRIBUTION/POSSESSION/IMPAIRMENT

All employees are prohibited from distributing, dispensing, possessing or using any beverage or medicine containing alcohol while at work or on duty and from coming onto Company premises, reporting to work, or working with alcohol in their system. Furthermore, lawful off-duty alcohol use, while generally not prohibited by this policy, must not interfere with an employee's job performance.

PRESCRIPTION DRUGS

The proper use of medication prescribed by your physician is not prohibited; however, we do prohibit the misuse of prescribed medication. Employees' drug use may affect their job performance (e.g., by causing dizziness or drowsiness). It is the employee's responsibility to determine from his or her physician whether a prescribed drug may impair safe job performance and to notify a supervisor of any job restrictions that should be observed as a result.

COUNSELING AND REHABILITATION

Employees who voluntarily seek help for substance abuse (self-referral) by contacting the Company will be given an opportunity to pursue counseling and rehabilitation. We will give these employees information about counseling and rehabilitation services. An employee who is receiving counseling and/or treatment for substance abuse may use available vacation, sick leave, or, if eligible, family and medical leave. Health insurance often covers the costs of such services, but costs not covered must be paid by the employee. The employee cannot return to work until released by a treatment provider to do so, and he or she must receive a negative result on a return-to-work drug and/or alcohol test (as appropriate for that individual). In addition, the employee may be asked to submit to follow-up testing for a period following the return to work.

An employee's decision to seek help voluntarily will not be used as a basis for disciplinary action, although the individual may be transferred, given work restrictions or placed on leave, as appropriate. A request for help is considered voluntary only if it is made before the employee is asked to submit to a drug or alcohol test or is discovered to have otherwise violated this policy.

1. Note to management: If the Company does business in one of the increasing number of states or local jurisdictions that has declared marijuana use to be lawful under state laws (though such use remains unlawful under federal law), the Company should specify how it will treat marijuana use under this policy. To date, all states that have legalized marijuana use continue to allow employers to prohibit employees from using, distributing or being under the influence of marijuana while on Company business or property.

2. Note to management: See note above. In particular, employers need to be aware of whether or not the state(s) in which they operate prohibit employers from taking action based on a positive test for marijuana in the employee's system.

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DRUG AND ALCOHOL TESTING³

Drug tests will be conducted in the following circumstances: [Optional:]

Application for Employment. All job applicants extended a conditional offer of employment must take and pass a drug test before beginning work. A refusal to submit to a drug test or a positive confirmed drug test will result in a withdrawal of the offer of employment.

Reasonable Suspicion. Employees may be required to submit to drug/alcohol screening whenever the Company has a reasonable suspicion that they are under the influence of drugs or alcohol while working.

Reasonable suspicion may arise from, among other factors, supervisory observation, coworker reports or complaints, performance decline, attendance or behavioral changes, results of drug searches or other detection methods, the employee's appearance or an odor of drugs or alcohol. Observations leading to reasonable suspicion determinations will be reasonably contemporaneous with the request for a test.

Employees asked to take a reasonable suspicion drug and/or alcohol test will be transported to the collection site for testing and then transported home pending receipt of the test results. Employees will be placed on administrative leave without pay pending the results of the test. If the test results are negative, the employee will be compensated for any wages lost due to the leave, unless a suspension without pay is justified under another policy.

Post-accident. Employees whose acts appear to have caused or contributed to a serious accident in which drugs could have been a contributing factor may be required to submit to post-accident testing as part of the investigation. Serious accidents include those that have caused an injury severe enough to warrant immediate offsite medical attention, or have caused significant property damage. Only workers whose actions may have caused or contributed to the accident will be tested.⁴

As with reasonable suspicion testing, employees asked to take a post-accident test will be transported to the collection site for testing and then transported home pending receipt of the test results. Employees will be placed on administrative leave without pay pending the results of the test. If the test results are negative, the employee will be compensated for any wages lost due to the leave, unless the suspension without pay is justified under another policy.

Random. Employees in safety-sensitive positions may be tested on an unannounced random basis. Employees will be selected for testing by a computerized random number program matched to employee numbers. Once selected for testing, an employee may not be excused from the testing process. Individuals subject to random testing will be notified at the time of hire or when the policy becomes applicable to them.

DISCIPLINE

Violations of this policy or any of its provisions will result in discipline up to and including termination of employment.

3. Note to management: Employers may choose among a number of different options for drug and alcohol testing. The most common forms of testing are pre-hire, post-accident, reasonable suspicion and random. All of these forms are generally permitted for employees in the construction industry, but employers should be on the lookout for variations in state laws, particularly with regard to testing protocols. Some federal agencies also impose specific testing requirements on certain types of employees as well, such as Department of Transportation requirements for testing certain covered drivers. Thus, the sample policy included here should not be adopted without careful consideration of other options and any applicable requirements of state and federal laws. However, we generally recommend adoption of lawful and appropriate drug and alcohol testing programs in order to maintain the safest possible construction workplace. As noted above, recently enacted laws in some states legalizing marijuana may have an impact on drug testing protocols.

4. Note to management: This language is intended to comply with the anti-retaliation provisions of OSHA's 2016 Injury Tracking and Reporting Rule (or Improve Tracking of Workplace Injuries and Illnesses Rule), though litigation is pending regarding the legality of OSHA's rule and OSHA announced that it is reconsidering aspects of the rule. Employers should continue to monitor further developments and guidance from OSHA and the courts regarding post-accident testing. Some states also take a more restrictive approach to post-accident testing.

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TESTING PROCEDURES⁵

Consent

No alcohol or drug test will be administered, or sample collected, without the written consent of the person being tested. However, a person's refusal to submit to a proper test will be viewed as insubordination and will subject the person to disciplinary action, up to and including termination. A refusal to test includes any behavior designed to obstruct the testing process, including efforts to substitute, adulterate or dilute specimens, as well as any failure to appear for testing within a reasonable time and failure to cooperate with collection staff.

The Company will pay the costs of all drug and/or alcohol tests it requires of employees and applicants.

Collection and Testing Methods

All drug tests will be performed by a laboratory certified by the U.S. Department of Health and Human Services to perform federal workplace testing. Breath and/or saliva tests may be used to detect the presence of alcohol. Alcohol tests typically will be conducted and, if positive, confirmed immediately at the collection site. An alcohol test will be considered positive if it shows the presence of .02 percent or more alcohol in an individual's system. Tests will seek only information about the presence of drugs and alcohol in an individual's specimen, and will not test for any medical condition.⁶

Notification

Any individual who tests positive for drugs will be contacted by a Medical Review Officer (MRO)—a health care professional with expertise in toxicology—before the result is reported, and given an opportunity to provide any legitimate reasons that would explain the positive drug test. If the individual provides an explanation acceptable to the MRO that the positive drug test result is due to factors other than the consumption of illegal drugs, the MRO will order the positive test result to be disregarded and will report the test as negative to the Company. Otherwise, the MRO will verify the test as positive and report the result.⁷

Upon request, individuals will receive a copy of their positive or non-negative test results. An individual who tests positive for drugs may request, within three days of being notified of the positive result, that his or her sample be sent to an independent certified laboratory for a second confirmatory test, at his or her own expense, although we may suspend, transfer, or take other appropriate action pending the results of any such re-test.

Confidentiality

All records relating to positive test results, drug and alcohol treatment, and employee medical information shall be kept confidential and disseminated to and within the Company only on a need-to-know basis. Such records will be kept in secure files separate from personnel files. Test results will not be released outside the Company without the written consent of the tested individual, or as otherwise may be required by law or legal process.

5. Note to management: Some states and federal agencies have enacted specific requirements that affect testing protocols. This sample policy is of general use only and should not be relied upon without checking applicable testing laws in the jurisdictions where the Company operates.

6. Note to management: As noted above, some states have enacted specific restrictions on the types of tests that are permitted. Employers should stay aware of changes to applicable state testing protocols.

7. Note to management: This language may need to be modified in a state in which marijuana has been legalized, though the drug remains a prohibited substance under federal law. In particular, employers need to be aware of whether or not the state(s) in which they operate prohibit employers from taking action based on a positive test for marijuana.

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