



Drug-Free Workplace

Self-Implementation Workbook

Guidebook for employers implementing BWC's
Drug-Free Workplace Program or Drug-Free EZ Program

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Required elements of BWC's Drug-Free Workplace Program

Employers participating in the Ohio Bureau of Workers' Compensation's (BWC's) Drug-Free Workplace Program (DFWP) must implement the following components:

- Develop a written policy;
- Provide employee education;
- Offer supervisor training;
- Conduct drug and alcohol testing;
- Offer employee assistance.

Resources available to help employers implement requirements

Ohio Department of Alcohol and Drug Addiction Services (ODADAS) Web address:
www.odadas.state.oh.us/dfwp/dfwp.asp

Department of Labor policy development tool Web address: www.umet-vets.dol.gov/elaws/asp/drugfree/drugs/screen2.asp

BWC's procedural guides for the DFWP and the Drug-Free EZ Program (DF-EZ) — BWC's Web site, ohiobwc.com

Requirements

- Develop a written policy
- Provide employee education
- Offer supervisor training
- Conduct drug and alcohol testing
- Offer employee assistance



Getting started with your Drug-Free Workplace Program

To put an effective drug-free program into place, you need to plan carefully. This workbook offers you guidance on how to develop a drug-free program, including the order in which you should tackle each task. Check lists will help you consider everything of significance for each drug-free program component.

Your program will deter, detect and help you take appropriate, corrective action to address substance problems that affect workplace safety and productivity. Support is available from BWC as you establish your drug-free program.

To put in place a basic level 1 DFWP or DF-EZ, you should do six things, typically in the order listed below.

1. Decide how much help you want from drug-free providers in meeting program requirements. This workbook provides guidance in terms of selecting providers.
2. Compose a written substance policy and operational procedures. Use the sample written policy at the back of this workbook as a guide. Have your legal counsel review both your policy and operational procedures.
3. Decide whether to conduct supervisor training before or after employee education. Contract with a drug-free provider for these services.
4. Determine how many drugs you want to test for in your employees. BWC requires you test for at least five specified drugs. Then identify a collection site for alcohol and drug testing. Inform the collection site testing procedures should be the same as for federal testing. Finally, with legal guidance, choose a cut-off level for a positive test for alcohol.
5. Decide when to announce your program and its effective date. BWC recommends you do this during your first employee education session where you share your written policy.
6. Maintain a list of local community resources employees can use to seek help with a substance problem. Determine any additional employee assistance you will offer.

In addition, if you are starting a program at level 2 of DFWP or DF-EZ, or move to level 3 after two years, you must:

7. Arrange random drug testing of 10 percent (level 2) or 25 percent (level 3) of your average annual work force through a provider that uses neutral-selection software;
8. Read the 10-Step Business Plan in this workbook. Understand what BWC expects of your company for each of the required steps at level 2 or level 3.



Developing a written substance policy

Requirements

- You must have a written substance policy in place by the 90-day mark of the initial program year.
- First year participants must provide a copy of the policy to BWC with annual Self-Assessment Progress Report by Sept. 30 (for the January program year) or by March 31 (for the July year).

Written substance policy as full and fair disclosure to employees

For fairness and effectiveness, tell your employees why you are putting a drug-free policy in place. Inform them how it works, what they need to know to be in compliance and the consequences for violating the policy. Give this policy to all employees in your initial employee education session where they will learn about the program. Let them ask questions.

Getting started

1. Look at sample policies, such as the one at the back of this workbook, and use whatever parts you can. Ensure your legal team reviews the policy.
2. Make sure you have operational procedures to guide your supervisors, especially in terms of how testing occurs. Consider having legal counsel review your procedures. Enforce your policy and procedures fairly and consistently.
3. Ensure compliance with any current union agreements. Employers with unions must bargain substance testing.
4. Make sure your policy says it applies to all employees from the top person on down.

Other resources

The Department of Labor offers a drug-free workplace program builder and other useful information at www.umet-vets.dol.gov/elaws/asp/drugfree/drugs/screen2.asp. The Web site includes information on the Drug-Free Workplace Act (1998), Department of Transportation (DOT) requirements and other pertinent laws that may affect your policy.

Presenting the program and policy

1. Mention your responsibility as an employer for having a safe workplace.
2. Focus on responsibilities of all employees for safety and complying with the policy.
3. Focus on the help available for employees with substance problems who come forward voluntarily. Also, spotlight the consequences for testing positive.
4. Ensure your employees understand your written operational procedures.
5. Inform your employees when testing may occur.
6. Make sure employees understand testing records are confidential.

Written policy check list

Our company's written substance policy:

1. States management's reason for creating a substance-free workplace;
2. States our drug-free program applies to all employees, [for public agencies, this includes elected officials];
3. Is consistent with collective bargaining agreements;
4. Stresses our commitment to confidentiality of information related to substance test results and/or requests for employee assistance related to a substance problem;
5. States what behaviors are prohibited and the consequences for violating the policy;
6. Describes the purpose and content of educational sessions;
7. Describes the purpose and content of supervisor training;
8. Provides information to employees about when testing will occur, how testing will occur, what substances will be tested and under what circumstances;
9. Describes the type of employee assistance offered.

BWC strongly advises legal counsel review your written policy prior to program implementation.

Requirements

- You must have a written substance policy in place by the 90-day mark of initial program year.
- First year participants must provide a copy of the policy to BWC with annual Self-Assessment Progress Report by Sept. 30 (for the January program year) or by March 31 (for the July year).

Requirements

- Conduct initial educational awareness sessions and an annual refresher for all employees, including supervisors.
- Hold two hours of education annually (DFWP employer) or one hour annually (DF-EZ employer).
- Qualified professionals must conduct educational awareness sessions.
- Submit a sign-in sheet from an employee education session held during the program period and one invoice from an education service provider with your Self-Assessment Progress Report each year.

Your drug-free workplace program should focus on preventing workplace accidents and injuries caused by substance use. To get employees to play a constructive role in ensuring your drug-free program's success, you must make them aware of the dangers of drug and alcohol use.

Initial and annual employee education offered by a qualified professional help create this awareness. At the initial session, announce your program and share your written substance policy, and how to comply with it. Then, educate your employees about drugs and alcohol as they relate to health and the workplace.

Select the right person to conduct educational sessions

Select a manager with good presentation skills to present your drug-free program and policy. Typically employers choose drug-free service providers to present substance education. However, you can opt to:

- Pick a qualified provider to develop educational materials, and select a supervisor/manager to present this information, with the provider in the loop to answer employee questions the manager can't answer;
- Send an employee to a train-the-trainer class, and then have him or her do the educational sessions;
- Select a provider who offers sessions online.

Qualified education providers

Qualified education providers have a credential and/or experience in substance issues. The DFWP and DF-EZ procedural guides contain a list of provider credentials. To obtain a guide, log on to ohiobwc.com,

or send an e-mail to dfwp@ohiobwc.com. Log on to www.odadas.state.oh.us/dfwp/dfwp.asp to obtain a list of providers interested in offering services.

Getting started

1. Determine what type of services you want and contract for them. At minimum, include developing educational materials.
2. Plan a start date for your drug-free program, then hold an educational session to announce its start to employees.
3. Ensure all employees receive a copy of your written substance policy, a form to sign acknowledging receipt (see Sample Forms section) and have the opportunity to ask questions.
4. Hold an initial educational session on substance issues affecting the workplace. You may do this when you announce your program and share the policy.



Employee education

At the first educational session, stress your company's commitment to a safe workplace and attempt to ensure employees understand your expectations, including:

- Your drug-free program applies to all employees;
- The consequences for violating your company's drug-free policy;
- Circumstances under which testing will occur;
- Protections built into your program to ensure fairness;
- How a drug-free program helps create a safer workplace;
- Who to contact for further information;
- Where to go to get help with a substance problem.

Helpful hint

Employees need to hear this program applies to everyone, and they need to get their questions answered. Listening and responding to their concerns may help employees perceive the program as a benefit. Respond to questions in a timely manner.

Minimum annual employee education

Two hours for employees of DFWP employers
One hour for employees of DF-EZ employers

Employee education should include:

- Sessions covering the basics about alcohol and other drugs, including:
 - Major problem represented by substance use in the workplace;
 - What constitutes substance use and misuse as defined in your written policy;
 - Disease model for alcohol and other drugs;
 - Signs and symptoms of substance use;
 - Effects of commonly used drugs in the workplace;
 - What assistance your employees can receive if they or their family members have a substance problem;
- A shared list of helping resources in your community employees can turn to for themselves or their families.

Provide new employees with program information within six weeks of employment. Make sure you give employees a copy of your policy and substance educational materials.

Use the check list below to ensure your employee education meets BWC's requirements and buffers your legal liability.

Check list for your employee education program

- Our company selected the program's implementation date. We made a preliminary announcement to our employees.
- We identified and contracted with a qualified educator to create a curriculum and materials, or arranged for a staff member to receive training from a train-the-trainer program.
- Our company planned the timing of employee education.
- We established a plan on how to educate new employees.
- Our company has a policy receipt acknowledgement document for employees to sign that we will keep in each employee's file. We will keep testing records separate.

In addition, our company has ensured education:

- Is the required length of time;
- Includes a company representative who covers the written policy and the consequences of a positive test;
- Includes basic information about alcohol and other drugs, signs and symptoms associated with substance use. It also points out the dangers of commonly used drugs in the workplace;
- Includes an explanation of when and how testing will occur;
- Includes an explanation of substances tested and cut-off levels reportable to the employer as a positive result for, at minimum, amphetamines, cocaine, marijuana, opiates, PCP/angel dust and alcohol;
- Includes, at minimum, sharing available employee assistance resources.

Requirements

- Conduct educational awareness sessions for all employees, including supervisors.
- Hold two hours of employee education annually (DFWP employer) or one hour annually (DF-EZ employer).
- Qualified professionals must conduct educational awareness sessions.
- Submit a sign-in sheet from an employee education session held during program period and one invoice from an education service provider with your Self-Assessment Progress Report.

Requirements

- Hold an initial skill-building training session for all supervisors and an annual refresher.
- Ensure four hours of training for each supervisor initially with two-hour annual refresher (DFWP) or two hours for each supervisor initially with one-hour annual refresher (DF-EZ).
- Submit a sign-in sheet from a supervisor training session held during the program period and one invoice from a training service provider with your Self-Assessment Progress Report each year.

You must train your supervisors to identify problems, intervene without creating liability and properly support your program. You have a lot more liability at stake when training your supervisors to deal with these issues. So, it's very important to select the right service provider to help your supervisors develop the skills they need to support your program.

Going over operational procedures

You also need to share your operational procedures with your supervisors since they offer guidance on how to handle various situations. Share with your supervisors how you expect them to support your drug-free program.

Program effectiveness

For your program to be effective, your supervisors must know how to recognize, document and confront a possible substance problem. They must know how to initiate reasonable suspicion testing. They also need to know how to refer an employee to available resources; how to follow up with employees re-entering the work setting after a positive test; how to handle program responsibilities consistent with any active collective bargaining agreements; and how to refer for testing, including transport.

Supervisors are the link to your work force and the key to successful implementation of your program. Poor training or lack of training decreases the chances of successful implementation of your policy.

Avoiding liability

Supervisors face a challenging role as the eyes, voice and arm of management. The trainer can help supervisors become comfortable with a safety-on-the-job focus for your program. And they can help them overcome their discomfort, especially regarding alcohol.

Untrained/under-trained supervisors can jeopardize your legal protections, and – in Ohio – your supervisors are at risk for their actions – not just your company.

Getting started

1. Choose a professional trainer. Review provider experience at providing needed training, including role-play, and contract for these services. At a minimum, the provider will develop supervisor skill-building materials.
2. Prior to implementing your program, choose whether to hold supervisor training before or after employee education.
3. Arrange your first supervisor training session. Decide when to address your company's written operational procedures and substance policy with your supervisors.
4. Have a trainer hold your initial supervisor skill-building training session.

At the first training session, stress the important role supervisors play in terms of program effectiveness. Share with them your company's expectations that supervisors:

1. Support the program by applying the rules consistently;
2. Understand the liability issues, and how observed behaviors must be documented clearly;
3. Understand the consequences for employees violating the company's drug-free policy;
4. Know how to conduct accident and incident investigations;
5. Understand how to get another trained supervisor involved if necessary to observe behavior that might suggest a need for intervention;
6. Realize they must deal with performance issues regardless of whether there is possible substance use in violation of the company's policy.

Helpful hint

Supervisors promoted from line staff positions who manage employees with whom they've gone drinking often feel discomfort when faced with alcohol misuse. They must deal with this discomfort. It typically takes several role-play situations to start to make headway. If supervisors will not take needed action in support of the employer's drug-free program, you may have a paper program with no enforcement.

Supervisor training

Minimum supervisor training

- Supervisors of DFWP employers receive four hours of initial skill-building training and, in subsequent years, two hours refresher training.
- Supervisors of DF-EZ employers receive two hours of initial skill-building training and, in subsequent years, one hour refresher training.
- New supervisors receive training prior to making a referral for substance testing.
- Supervisors receive this training in addition to attending employee education sessions.
- If you use the train-the-trainer option for supervisors, your liability can increase. BWC recommends using a highly qualified, skilled trainer to conduct supervisor training sessions.

- Sessions can include time spent with supervisors on operational procedures and expectations for supporting the program.

Qualified supervisor training providers

Qualified supervisor training providers have a credential and/or experience in providing substance skill-building training to supervisors, experience in small group processing and facilitating role play. The DFWP and DF-EZ procedural guides contain a list of provider credentials. To obtain a guide, log on to ohiobwc.com, or send an e-mail to dfwp@ohiobwc.com. Log on to www.odadas.state.oh.us/dfwp/dfwp.asp to obtain a list of providers.



Use the check list below to ensure your supervisor training meets BWC's requirements and buffers your legal liability.

Check list for your supervisor training

- We decided whether to do supervisor training prior to program announcement in the event the employees ask questions of their supervisors.
- We identified and contracted with a qualified trainer to put together a curriculum and materials.
- Our company planned the timing of training for supervisors.
- Our company developed a plan on how to train new supervisors.
- We planned for annual refresher training for supervisors who received the initial training.

In addition, our company ensured supervisor training:

- Is in addition to employee education;
- Is the required length of time;
- Teaches supervisors their specific roles in implementing the program and policy;
- Builds supervisors' skill levels in regards to recognition, documentation, confrontation, removal or referral;
- Includes role-play of supervisor/employee interactions.

We also worked with a qualified provider to make sure supervisors are trained on how to:

- Recognize a possible alcohol/drug problem;
- Document behaviors that demonstrate a possible alcohol/drug problem using check lists of behaviors;
- Confront employees with the problem from observed behaviors;

- Initiate reasonable suspicion and post-accident testing;
- Handle the procedures associated with random testing (Note: Employers at level 2 and level 3 should include this);
- Make an appropriate referral for assessment or assistance;
- Follow up with employees returning to work after a positive test;
- Handle responsibilities in a manner that is consistent with the applicable sections of any pertinent collective bargaining agreements.



Requirements

- Hold an initial skill-building training session for all supervisors and an annual refresher.
- Training must be for four hours for each supervisor initially with two-hour annual refresher (DFWP) or two hours for each supervisor initially with one-hour annual refresher (DF-EZ).
- Submit a sign-in sheet from a supervisor training session held during program period and one invoice from a training service provider with your Self-Assessment Progress Report.

Drug and alcohol testing

Requirements

- Pre-employment/new hire
- Reasonable suspicion
- Post accident
- Return-to-duty/Follow up
- Random (level 2 and 3)
- Use of certified laboratory, collection site and medical review officer
- Report testing information requested and copies of invoices from your collection site for testing services on annual Self-Assessment Progress Report

Effective drug-free programs use drug and alcohol testing that produces reliable, accurate results. Testing detects and deters substance use that affects the workplace. And it holds employees accountable through corrective action based on your written substance policy.

BWC requires employers to use testing that follows the DOT model. This model relies upon Department of Health and Human Services/Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines. SAMHSA oversees the certification of testing laboratories. Testing that follows the federal model has built-in protections for employees and employers alike and is defensible in court.

The bureau strongly urges you to consult with legal counsel to ensure well-written operational procedures. Also, consult with legal counsel to determine a cut-off level for a positive test for alcohol. BWC's drug-free programs require a five-panel drug test. However, you are free to test for additional drugs.

Who does testing?

You contract with testing professionals to obtain collection and laboratory analysis services. You typically start with finding a local collection site for drug and alcohol testing. Consult your local phone directory and the list of providers ODADAS maintains. Use this address: www.odadas.state.oh.us/dfwp/dfwp.asp.

Make sure you inform the collection site what services you're requesting (non-federal testing that follows the federal model). The collection site will obtain the urine analysis services that comply with BWC's program requirements from a SAMHSA-certified laboratory. The collection site will also secure the services of a certified medical review officer (MRO).

Required testing

Alcohol testing

Alcohol testing uses breath/saliva specimens for preliminary testing. A preliminary positive test leads to confirmation through an Evidentiary Breath Test (EBT), which is the form of systems presence testing used for alcohol. When federally approved breath testing equipment is not readily available, the use of a blood test is permissible.

The collection site with whom you contract must follow the federal testing model. BWC recommends you consider an alcohol test confirming at .04 percent blood alcohol content (BAC) as a positive test under your drug-free policy. This cut-off level is consistent with established practices of the DOT. However, you may choose a different cut-off level based on the nature of your business. Do this in consultation with legal counsel.

Drug testing

BWC requires you ensure drug testing uses urine lab analysis, including the use of split specimen testing for all testing but pre-employment. It also requires you ensure the collection site follows the federal testing model, which details specimen collection, chain of custody and other protections.

Random drug testing

Level 1 DFWP and DF-EZ employers do not have a random drug testing requirement unless specified by another authority, such as state construction or federal mandate. Level 2 employers must ensure random drug testing of 10 percent of the employer's total (average annual) work force during the program year. Level 3 employers must ensure random drug testing of 25 percent of the employer's work force during

Requirements

- Pre-employment/new hire
- Reasonable suspicion
- Post accident
- Return-to-duty/Follow up
- Random (level 2 and 3)
- Use of certified laboratory, collection site and medical review officer
- Report testing information requested and copies of invoices from your collection site for testing services on annual Self-Assessment Progress Report

the program year. Public employers should do random drug testing of only safety-sensitive positions as outlined in the company's policy.

BWC mandates split specimen testing to allow possible re-testing except for pre-employment.

You pay for the cost of testing except for employee requested re-testing, which reaffirms a positive result. You also must pay for follow-up testing if required by a second-chance agreement.

Required drugs for testing

BWC requires testing for – at minimum – five drugs (the same DOT tests), specified below. Employers are free to test for additional drugs.

1. Cocaine
2. Marijuana
3. Opiates
4. Amphetamines
5. Phencyclidine (PCP/angel dust)

Drug and alcohol testing requirements for BWC's DFWP and DF-EZ

Type of test required	Explanation
<p>Pre-employment test (drug test only)</p> <p>and/or</p>	<p>This test is required within so many hours (defined by you) after a conditional offer of employment and before the employee begins work.</p> <p>and/or</p>
<p>New hire test (drug test only)</p> <p>The employer will test 100 percent of employees within the first 90 days of employment.</p>	<p>You can conduct this test unannounced at any time during an employee's designated probation period, typically not to exceed 90 days.</p>
<p>Reasonable suspicion (drug and/or alcohol test)</p> <p>BWC bases reasonable suspicion testing upon observation and documentation. For their protection, employers should have documentation to support testing for alcohol since an alcohol test is considered a medical procedure.</p>	<p>BWC requires reasonable suspicion testing when evidence suggests an employee uses drugs or alcohol in violation of your DFWP policy. You draw evidence from specific, objective facts and reasonable inferences. You may base such facts and inferences on, but not limited to, any of the following:</p> <ul style="list-style-type: none"> a) Observable phenomena, such as direct observation of drug or alcohol use, possession or distribution, or the physical symptoms of being under the influence of drugs or alcohol. Symptoms can include slurred speech, dilated pupils, odor of alcohol or marijuana, changes in affect, dynamic mood swings, etc.; b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance that appears to be related to substance use and does not appear to be attributable to other factors; c) The identification of an employee as the focus of a criminal investigation into unauthorized drug possession, use or trafficking; d) A report of alcohol or other drug use provided by a reliable and credible source; e) Repeated or flagrant violations of your safety or work rules, which a supervisor determines poses a substantial risk of physical injury or property damage. The violations appears to be related to substance use or substance use that may violate your DFWP policy, and do not appear attributable to other factors.

Drug and alcohol testing

Drug and alcohol testing requirements for BWC's DFWP and DF-EZ (Continued)

Type of test required	Explanation
<p>Post accident (drug or alcohol test or both) Employees who may have caused or contributed to an on-the-job accident, as defined in this rule, will submit to a drug and/or alcohol test.</p> <p>You will administer this test as soon as possible after the employee receives necessary medical attention, or within eight hours for alcohol and within 32 hours for other drugs.</p> <p>You should have documentation to support testing for alcohol (considered a medical procedure). A urine drug test requires no such caution.</p> <p>You need not test for an accident requiring off-site medical attention if:</p> <ul style="list-style-type: none"> • The injury is minor; • It's considered commonplace to the job function; • No violation of work rules occurred; • There is no reasonable suspicion. 	<p>The employer must conduct post-accident testing immediately following an on-the-job accident, as defined by Rule 4123-17-58 or 4123-17-58.1.</p> <p>Accident means an unplanned, unexpected or unintended event, which occurs on the employer's property.</p> <p>An accident can occur during the conduct of the employer's business or during working hours. It also can involve employer-supplied motor vehicles or motor vehicles used in conducting the employer's business, or within the scope of employment.</p> <p>An accident results in any of the following:</p> <ol style="list-style-type: none"> a) A fatality; b) Bodily injury requiring off-site medical attention away from your place of employment; c) Vehicular damage in apparent excess of a dollar amount stipulated in your DFWP policy; d) Non-vehicular damage in apparent excess of a dollar amount stipulated in your DFWP policy. <p>As used in this rule, accident does not have the same meaning as provided in Division (C) of section 4123.01 of the Ohio Revised Code. The definition of this rule does not modify the definition of a compensable injury under the workers' compensation law. Also, this definition of accident does not match the one used by DOT/FMCSA.</p>
<p>Random (drug test only) Level 2 employers must ensure random drug testing of 10 percent of his or her total (average annual) work force during the program year. Level 3 employers must ensure random drug testing of 25 percent of his or her work force during the program year.</p> <p>Public employers test only safety-sensitive positions as outlined in the company's policy.</p>	<p>Features of random testing include the following:</p> <ul style="list-style-type: none"> • An unannounced test that occurs at a pre-determined frequency among randomly selected employees; • Equal probability of selection each time testing occurs; • Unannounced test of all employees or all those in a classified group (e.g., safety sensitive, etc.).
<p>Follow-up to treatment or assessment (drug and/or alcohol test: negotiated with input by a clinician)</p> <p>A minimum (no set maximum) of four tests in the first year from date of return to duty. Maximum number of tests after first year determined with clinician. For DF-EZ, only a return-to-duty test is required.</p>	<p>Features of follow-up treatment or assessment testing include the following:</p> <ul style="list-style-type: none"> • Unannounced testing that occurs when an employee returns to work; • Occurs during treatment and/or for a period of time following treatment; • The first follow-up test serves as a return-to-duty test and occurs before the employee resumes work activities, and following a leave associated with a policy violation.

DHHS cut-off levels for the five-panel of drugs

Tested drug	Preliminary – EMIT screen (ng/ml)	GC/MS confirmation (ng/ml)
Amphetamines	1,000	500
Cannabinoids (Marijuana/THC)	50	15
Cocaine	300	150
Opiates	2,000	2,000
Phencyclidine (PCP)	25	25

Ng/ml is the measurement for chemical metabolites in urine and means nanograms per milliliter.

Check list for our testing program

Our policy includes a clear statement of when a drug and/or alcohol test will occur.

- Pre-employment and/or new hire (drug testing only)
- Reasonable suspicion (drug and/or alcohol testing)
- Post accident (drug and/or alcohol testing)
- Return to duty (drug and/or alcohol testing)
- After return to duty, additional follow-up (drug and/or alcohol testing)
- For level 2 or level 3, random testing of 10 percent and 25 percent respectively, applied to the total work force on an annual basis for private employers or to safety-sensitive positions/ functions for public employers (drug testing only)

Our policy describes what substances we will test (at minimum, those listed below).

- Amphetamines
- Cocaine
- Marijuana
- Opiates
- PCP/angel dust
- Alcohol

Our testing program includes the following actions:

- Identifying what constitutes an accident (where any employee who may have caused or contributed to the accident is subject to testing);
- Mandatory use of collection sites that comply with federal requirements for urine specimen collection (drug testing) and breath/saliva/blood (alcohol testing);
- Split specimen testing (required for a possible re-test except for pre-employment);
- All urine specimens sent to a SAMHSA-certified laboratory by the collection site and subject to preliminary immunoassay (EMIT Screen) and confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) testing, using

- federal cut-off levels;
- Collection site use of a certified MRO;
- Clear statement of what cut-off levels for drugs mean and established cut-off level for a positive alcohol test;
- Employee protections built into the testing system;
- Identified consequences for refusal to test, adulteration, attempted adulteration or specimen substitution.



Employee assistance

Requirements

- For DF-EZ at any program level and level 1 DFWP, employers must provide a list of local employee assistance resources to give to employees who come forward asking for help and for those who may have a problem, including employees who test positive for alcohol or drugs.
- For level 2 DFWP employers, pre-establish a relationship with a local employee assistance professional for a possible referral.
- For level 3 DFWP employers, offer health-care coverage that includes chemical dependency treatment/counseling.

You can obtain this list from the ODADAS Web site, www.odadas.state.oh.us/dfwp/dfwp.asp or by contacting BWC at dfwp@ohiobwc.com.

Employee assistance plan

Employee assistance is an important part of any drug-free program. When you help your employees, you show them they are a valued company resource.

When you provide your employees with help to resolve problems, including substance use, before these problems impact job performance, you save money, build loyalty and prevent problems that affect workplace safety. Employees who believe their employer cares about them are typically more productive and supportive of a drug-free program.

The starting place for getting help is an assessment of an employee's substance problem. A qualified professional should evaluate your employee's problem. He or she can determine the extent of the problem and assistance needed for a successful intervention. An assessment determines what happens next in terms of an intervention and how to support the employee making changes.

- BWC requires you to have an employee assistance plan.
- At minimum, you share a list of local community resources with employees who may need a professional substance assessment and possible help.
- You share resources with employees who seek help on their own, those who management refers for a possible alcohol/drug problem and those who have a positive test.
- Your employee assistance plan addresses how you will respond to employees who need help with a substance problem. This includes whether to seek termination of employment, and when you might consider giving an employee a second

chance. BWC encourages you to offer employees the highest level of assistance possible, including giving employees a second chance after a first positive test.

- Under appropriate, justifiable circumstances and, as indicated in your policy, you may terminate employment based on a positive test. Seek guidance from legal counsel when considering these circumstances. This involves making decisions with implications for future action and the need for consistency to buffer legal liability.

Who pays for the cost of employee assistance?

- DFWP levels 1 and 2 and all levels of DF-EZ do not require you to pay for an assessment or treatment for employees with substance problems. Regardless, you should identify in policy if you will pay for an assessment and/or treatment. Reasonable co-pays for assessment and/or treatment make sense since it makes the employee take responsibility, which is more conducive to addressing a substance problem.
- DFWP level 3 requires you to pay for chemical dependency counseling/treatment. BWC allows reasonable co-pays as part of health-care coverage.

Becoming familiar with assistance service options

BWC urges you to become aware of employee assistance services. These services, subsidized by public tax dollars, can benefit your employees. Everyone, regardless of their ability to pay, can use these services.

To learn about the local community service network of service providers, contact your local Alcohol, Drug Addiction and Mental Health Board, or Alcohol and Drug Addiction Service Board. One of these boards serves each Ohio county.

ODADAS is another resource. You can call ODADAS at (614) 466-3445.

If you cannot find the number for your local board, call the Ohio Prevention and Education Resource Center (OPERC) toll free at (800) 788-7254. OPERC can send you written information and other resources on dealing with substance use.

Employee assistance program (EAP)

The highest level of assistance is an employee assistance program (EAP). As a drug-free employer, you are not required to have an EAP for any level of participation. However, BWC encourages you to offer the highest level of assistance.

An EAP offers broad-ranging services; thus, it differs in scope from an employee assistance plan.

An EAP can be a cost-effective, comprehensive option to help employees deal with problems affecting job performance. The return on investment is significant. An EAP can identify and help resolve problems by applying short-term counseling, referral and follow-up services. It also provides management training and consultation, prevention and education, crisis intervention, benefits analysis and organizational development. Certified employee assistance professionals offer these services.

Key issues to think through in advance

The consequences of a positive test

Your substance policy should clearly spell out consequences for testing positive, refusal to test, adulteration, attempted adulteration and specimen substitution.

Options typically include discipline up to and including termination. You can also refer the employee for an assessment, allow return-to-duty after a negative test and offer a second chance. You do this through a signed agreement that specifies the consequences for a subsequent positive test or refusal to test.

Treat specimen adulteration, attempted adulteration or substitution very seriously since this is an effort to undercut the testing system.

Termination of employment

If you are in DFWP at level 1 or at any level of DF-EZ, you may choose to terminate employment based on your written policies. Termination is subject to collective bargaining agreements.

Requirements

- For DF-EZ at any program level and level 1 DFWP, employers must provide a list of local employee assistance resources to give to employees who come forward asking for help and for those who may have a problem, including employees who test positive for alcohol or drugs.
- For level 2 DFWP employers, pre-establish a relationship with a local employee assistance professional for a possible referral.
- For level 3 DFWP employers, offer health-care coverage that includes chemical dependency treatment/counseling.

Employee assistance

Upon an employee's first positive drug or alcohol test, in addition to any corrective action you take, you should explain what an assessment is to the employee. Clearly convey your belief in the value of such an assessment to the employee. Remember, this may be a time to make a difference in getting the employee to acknowledge and deal with his or her substance problem.

Use this same process with employees whom management refers for possible substance use in violation of the policy and those who come forward voluntarily and ask for help.

You may terminate employment for an employee testing positive or refusing testing. You may also terminate employment for an employee attempting to manipulate the testing process, through adulteration, attempted adulteration or specimen substitution. Your policy should detail these terms and be consistent with any collective bargaining agreements.

Your written policy provides the framework for consequences. Even if deciding to terminate employment, you should handle the termination process in a way that encourages the employee to seek help.

Do this through a private meeting in which you emphasize the importance of the employee getting a professional assessment of the problem that resulted in loss of employment. Obviously, there's a problem since it's costing the employee his or her job.

If you participate in DFWP level 2 and level 3, BWC asks you to give an employee who tests positive a second chance. Use a second-chance agreement referral for an assessment. Bring the employee back to work after assessment and help following a negative test.

Termination for a first positive test cannot typically be a company policy at level 2 or level 3. Exceptions to non-termination on a first positive test include the considerations of the nature of your business or having a multi-state corporate policy that dictates termination. BWC reviews these situations on a case-by-case basis.

Employee assistance check list

- Our written policy describes the type of employee assistance services we offer. These range from a list of local community resources to turn to for help with a substance problem to referral to an employee assistance professional to health-care coverage, including chemical dependency counseling, based on program level.

If you do choose to retain rather than terminate employment after a first positive test, you must have the following procedures in place:

- A plan on how to refer an employee to professional substance services for an assessment and/or treatment, when appropriate;
- How you will handle re-entry and reintegration of employees coming back to duty after an assessment and/or treatment;
- A plan for protecting the confidentiality associated with employees who voluntarily seek help or are referred for assessment and/or treatment, including protection of testing within employee records;
- Guidelines regarding compensation or employment status for an employee's time away from work for assessment and/or treatment, as applicable;
- Documenting how re-testing will occur, and how second- or last-chance agreements will work in conjunction with referral for assessment, return-to-duty testing, and unannounced follow-up testing.

10-Step Business Plan for level 2 and level 3 participants



Requirements

- Depending upon level of participation and specific program, you must implement some or all steps of the 10-Step Business Plan.
- If required to implement steps of the 10-Step Business Plan, submit a copy of the company's written safety policy (required as part of Step 1), signed by the chief executive officer, with your Self-Assessment Progress Report each year.

BWC's 10-Step Business Plan is a proven safety program that can provide structure and cohesiveness to your overall safety efforts. If you participate in DFWP and DF-EZ at level 2 or level 3, BWC requires you to put a number or all of the 10 steps listed below in place.

1. Visible, active senior management leadership
2. Employee involvement and recognition
3. Medical treatment and return-to work practices
4. Communications
5. Timely notification of claims
6. Safety and health process coordination and employer education
7. A written orientation and employee training plan
8. Written and communicated safe work practices
9. Written safety and health statement
10. Recordkeeping and data analysis

This chart shows the steps each DFWP and DF-EZ employer is required to implement.

DFWP level	10-Step requirement
0 or 1	No steps required
2	Five steps: 1,2, 6 and two others
3	All 10 steps
DF-EZ level	10-Step requirement
0 or 1	No steps required
2 or 3	Three steps: 1, 2, and 8

BWC requires you to implement three pre-selected steps of the 10-Step Business Plan during every year at level 2. The bureau also requires you to implement two additional steps for DFWP. You may select the two additional steps in consultation with BWC staff or on your own.

More detailed information is available in the following publications:

- DFWP and DF-EZ procedural guides;
- *BWC's 10-Step Business Plan: A Guide for Developing Organizational Excellence in Safety and Health Management.*



You can access these publications by logging on to BWC's Web site, ohiobwc.com.

Requirements

- Depending upon level of participation and specific program, you must implement some or all steps of the 10-Step Business Plan.
- If required to implement steps of the 10-Step Business Plan, submit a copy of the company's written safety policy (required as part of Step 1), signed by the chief executive officer, with your Self-Assessment Progress Report each year.

The process of selecting drug-free service providers

Helpful hints

- Shop around. You are their customer.
- Shop around. There is more than one provider of a specific service.
- Shop around. Make sure the provider helps meet BWC's requirements.

DFWP provider directory

The ODADAS Web address, www.odadas.state.oh.us/dfwp/dfwp.asp, contains a directory of companies/individuals who assist employers develop and implement a drug-free program.

ODADAS and BWC make no representations regarding the quality of service provided and expressly advise those who use these services to choose with care. Where credentials are required, ODADAS ensures each provider demonstrates that someone on his or her staff holds an appropriate credential.

You are free to choose any qualified provider whether or not the directory lists the provider. Regardless, you must rely upon your own judgment and take full responsibility for provider selection.

Evaluating drug-free service providers

In establishing a drug-free workplace, you may work with organizational consultants, attorneys, and drug/alcohol collection/laboratory services. You may also work with education/training professionals and employee assistance professionals.

It's important to accurately assess the expertise of these companies. One option is to seek help from a competent professional broadly knowledgeable in terms of drug-free programs. Choosing a company that offers a range of drug-free services can result in lower costs from packaged services based on volumes of business. Shop around.

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Items to consider when choosing a provider

Program development and consultation

- The provider has experience in offering program development as a core business.
- The provider has up-to-date knowledge of drug-free legislation and case law.
- The provider has experience in tailoring a written policy.
- The provider has experience in developing operational procedures.
- The provider has access to consortium services for lower cost.
- The provider will supply references.

Attorney services for legal review of written policy

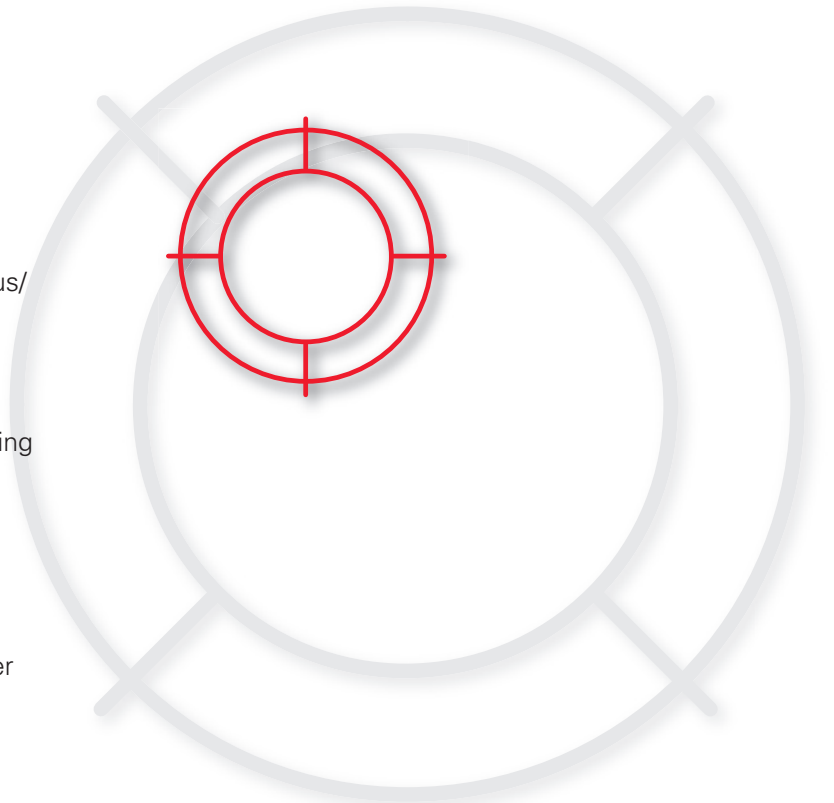
- We selected an attorney experienced in employment/labor law.
- Our attorney is experienced in drug-free workplace policy and program development.
- Our attorney is up-to-date on drug-free workplace legislation and case law.

Employee education provider services

- Our company has obtained names from the provider directory or from other employers.
- The provider has provided names of satisfied clients.
- Our company has checked references and compared prices for education services.
- Our company has contracted with a qualified, knowledgeable provider.
- The provider fully understands what the content of these sessions should include.
- Our company has considered the train-the-trainer option.

Supervisor training (in addition to the check list questions above for education)

- The provider has expertise as a skills trainer involving substance issues.
- The provider is skilled and experienced in working with supervisors in small groups.



The process of selecting drug-free service providers

- The provider is skilled in terms of doing role-play.
- The provider is willing to learn our drug-free policy and program procedures as they relate to supervisors' roles.

Drug and alcohol testing

- We negotiated prices through a consortium or through shopping around.
- Our collection site is an established medical/ collection facility that does collection as a business.
- Our collection sites follow the federal testing process.
- We have discussed indemnification for false positive test results.
- Our company has set up a system to handle testing information received from labs/collection/ MRO with separate and secure lockup.

- The facility offers random selection service. [Note: for employers doing random testing.]
- We have established post-accident arrangements.

Type of testing conducted by provider and costs

- Five-panel screen or additional drugs
Bundled versus split fees
- GC/MS confirmation, EBT confirmation
Bundled versus split fees
- Cut-off levels for additional drug(s) that are specifically requested
- Alcohol screen: saliva, breath and blood

Check list for employee assistance

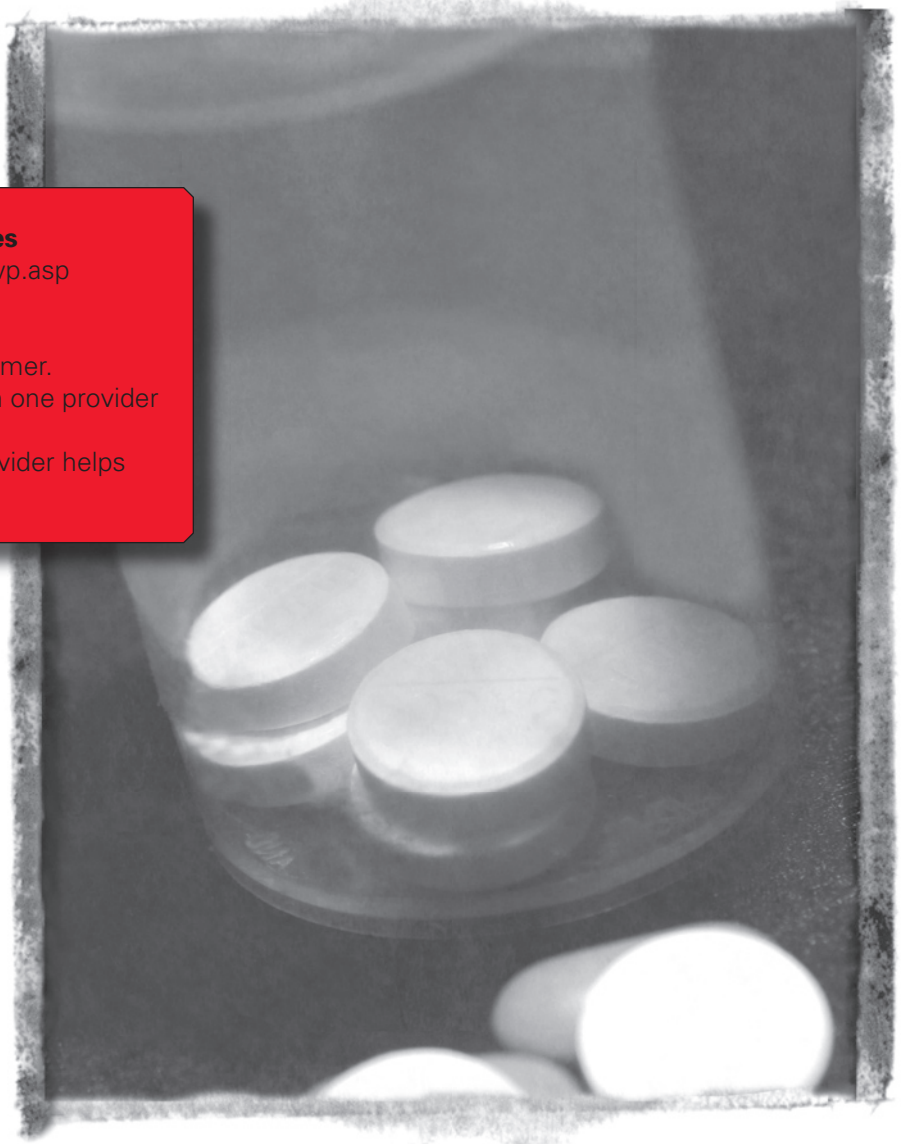
- We reviewed employee assistance options and determined services to offer.
- We reviewed obtaining employee assistance through a consortium.

Directory for providers of services

www.odadas.state.oh.us/dfwp/dfwp.asp

Helpful hints

- Shop around. You are their customer.
- Shop around. There is more than one provider of a specific service.
- Shop around. Make sure the provider helps meet BWC's requirements.



Reporting and documentation requirements

BWC requires you to:

- Keep various documentation;
- Timely submit the annual Self-Assessment Progress Report by the nine-month mark of each program year;
- Cooperate when requested to do a drug-free program audit.

You report the progress you've made in implementing and operating your program to BWC on a Self-Assessment Progress Report. The back of this workbook includes the form.

Your designated representative must complete and sign the Self-Assessment Progress Report by Sept. 30 if you participate in the January program year. The report is due BWC by March 31 if you participate in the July program year.

BWC can remove you from the DFWP or DF-EZ if you fail to submit the annual Self-Assessment Progress Report or fail to cooperate with an audit request. This includes state construction contractors/subcontractors operating a comparable program.

Along with the Self-Assessment Progress Report, BWC requires documentation you have implemented various program components: a written substance policy in place, offering employee education and supervisor training, and ensuring compliant drug and alcohol testing, etc.

Changing program levels

To start in DFWP or DF-EZ, you choose a level of participation (level 1 or level 2 or, if you are a state construction contractor, level 0/Comparable is an option). Level 3 is not available as an

option until you prepare for your third year. Each time you submit your Self-Assessment Progress Report, you request your level of participation for the next program year. You do this until nearing the completion of your fifth year.

BWC does not lock you into any program level, and you can move back to level 1 or level 2. If you enter the program at any level of discount, you can change levels at progress reporting time for the following policy year. You will be in the discount program for a maximum of five years.

The DFWP and DF-EZ run five consecutive years. Once you drop from the discount program, you cannot re-enter the program without repayment of a previously earned discount.

Level 0/comparable program

Ohio requires state construction contractors bidding on or working as contractors/subcontractors on such projects to have a drug-free program. State construction contractors commonly use this level.

BWC maintains a list of all state construction contractors enrolled in drug-free programs. Contractors that bid on state construction projects must be on this database before state contracting agencies accept their bids.



Requirements

- Keep various documentation.
- Timely submit the annual Self-Assessment Progress Report by the nine-month mark of each program year.
- Cooperate when requested to do a drug-free program audit.

Disclaimer

The following sample drug-free workplace policy comes with an important caution to you. BWC designed this policy using its drug-free program requirements for an employer implementing the bureau's program.

This sample policy is for level 1 or level 0 (for construction employers, no discount) participants. BWC notes specifically under employee assistance and random drug testing where you need to address additional requirements that apply for level 2 and level 3 employers.

The sample policy gives you ideas on how to develop and structure a policy that meets the requirements of the program level. You must tailor this sample policy to make it fit for your particular work environment.

So, you can use the sample policy for each program level as a structural guide for a DFWP policy. Where possible, you can design an effective drug-free program by involving staff in developing the policy and procedures for the program. You will not achieve your desired results if you attempt to implement a policy without a process that integrates program requirements into your specific working environment. In addition, a policy alone is typically insufficient without operational procedures that provide structured guidance on how to handle various situations.

BWC strongly advises drug-free employers to obtain legal review of their written policies before implementation. The sample written policy that follows has not undergone such a review. Your legal review should come from an employment law attorney with experience in drug-free case law.

BWC expressly cautions employers against requesting to be reimbursed for what is essentially a replication of this sample policy if purchased from a vendor under the guise of "policy development."

Drug-Free Workplace Policy for Level 1 and Level 0 Employers

Level 2 and level 3 employers have additional requirements that are addressed particularly under testing.

I. Statement of policy

Our company believes it's important to provide a safe workplace for all employees. This includes dealing with drug and alcohol use that negatively affects every workplace. Our company is concerned with the health and well being of all employees. Behaviors related to substance use can endanger all employees, not just the substance users.

Our company cannot condone and will not tolerate:

- Possession of illegal drugs on company property and in an employee's system on the job;
- Possession of alcohol on company property and/or in an employee's system on the job;
- Sale, purchase, transfer, trafficking, use or possession of any illegal drugs on the job;
- Arrival or return to work with illegal drugs or alcohol in an employee's system to the extent that job performance or safety is affected.

We exempt physician prescribed medications to an employee who takes the medicine as prescribed and does not compromise workplace safety.

Management is committed to this drug-free policy (Policy). It establishes clear guidelines for acceptable and unacceptable employee behavior in the workplace. We will not tolerate substance use in violation of this Policy. We intend to hold everyone reasonably responsible for supporting the Policy.

This Policy describes our company's drug-free workplace program. We expect every employee to read and understand it. The Policy applies to every employee. This includes top management and contractors. Anyone who violates this Policy will be subject to the consequences stated in this document.

We intend to hold all employees accountable in terms of substance use. However, we will support employees who voluntarily identify their substance problems prior to testing.

Regardless, we will subject employees, who have substance problems but do not come forward and then test positive for drug or alcohol use, to the employment consequences stated in the policy.

This Policy and program will go into effect within ___ days of the announcement of our drug-free program and the sharing of this Policy. The program's five key parts are:

- The written policy, which clearly spells out the program rules and how everyone benefits;
- Annual substance awareness education for employees;
- Annual training for supervisors regarding their responsibilities;
- Drug and alcohol testing, the most effective way to change harmful behaviors related to substance use;
- Employee assistance.

Employees will have the opportunity to learn about how substance use affects the workplace, and the signs and symptoms of substance abuse. Employees also can learn about the dangers of substance use, and how and where to get help for themselves and their families.

(_____) will be our drug-free coordinator. So, everyone knows who to go to for information or help.

(_____) will arrange drug and alcohol testing, as needed. (_____) also can share where employees can go to for help for themselves and their families if they have a substance problem. He or she will also arrange to get knowledgeable presenters to educate everyone about substance use.

Protections for employees

Our program protects employees from dangerous and unproductive behaviors attributable to substance use. It also has built-in protections of employee rights.

- We keep employee records, such as testing results and referrals for help, confidential. We share information on a need-to-know basis only. Violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.
- We're committed to employees who have a substance problem getting help. We will review each situation. Employee assistance is available for employees and their families through a list of resources available through our drug-free coordinator. We want you to come forward if you have a problem. Remember, if you test positive, you risk losing your job, and we don't want that to happen.
- We will train supervisors in their duties related to testing before this program begins. They will also receive annual training to identify behaviors that may indicate a substance problem exists. Supervisors will learn how to refer employees for assistance and/or testing.

Drug-Free Workplace Policy for Level 1 and Level 0 Employers (Cont.)

- Everyone will attend annual education sessions. Sessions will include sharing assistance resources.
- A local clinic will collect urine specimens and conduct breath testing. A laboratory certified by the federal government will analyze urine specimens for drugs. These labs ensure various substances present in an employee are of sufficient quantity to be a danger in the workplace. This system ensures the accuracy and fairness of every test. We also have a medical review officer (MRO), a physician trained in substance abuse, involved. When the MRO receives positive test results, he or she contacts the employee and any appropriate health-care provider or pharmacy. The MRO then can determine whether there is a valid reason for the presence of the drug in the person's system.
- Our testing program starts with an initial screening test. If the initial results are positive, the laboratory then uses a second test or confirmatory test. We established cut-off levels for each drug and for alcohol to determine what we will consider a positive test. These levels show the employee didn't just have a little of the substance in his or her system but enough to affect workplace safety and the ability to do the job. These cut-off levels come from federal guidelines and are fair for all employees.

Employee education

Every employee will attend a session in which we discuss this Policy. You will have a chance to ask questions. We'll distribute written copies of the Policy. We expect everyone to sign it; thus, confirming they received a copy. Later, we'll have a qualified person explain why substance use is a workplace problem. He or she will also explain the effects of various substances, signs/symptoms of substance use, and effects of commonly used drugs in the workplace and how to get help. Education aimed at getting everyone to understand the dangers of substance use will occur each year.

Supervisor training

We will train supervisors to recognize substance problems that may endanger the employee and others. They will also learn how to recognize Policy violations. Once trained, they will recognize behaviors that may demonstrate an alcohol/drug problem, how to make referrals for help and for testing.

Drug and alcohol testing

We will test for drugs and for alcohol to detect problems and get employees not to use substances in a way that violates our Policy. Testing will also allow us to take appropriate action to correct the situation. Testing will look for alcohol and the following drugs:

- Amphetamines (speed, uppers);
- Cocaine;
- Marijuana;
- Opiates (codeine, heroin, morphine);
- Phencyclidine (PCP, "angel dust");
- [insert additional drugs that you choose to have tested].

Employee assistance

Our company believes in offering assistance to employees with a substance problem. We will offer the following help [choose the form of assistance that matches your program.] Example: We will make available to employees a list of local community resources to turn to for help. This list includes places to go for an assessment and for treatment.

[Note to employers: At minimum, for DFWP level 1 and for all levels of DF-EZ, you need to have a list of local community helping resources to share that employees can turn to for help. Level 2 DFWP requires pre-establishing a relationship with a local employee assistance provider. Employees could go to this provider for an assessment of the nature/depth of their substance problem. Level 3 DFWP requires the addition of health-care coverage, including chemical dependency counseling.]

II. When may testing occur?

We will test employees for the presence of drugs in the urine and/or alcohol (through saliva, breath and/or blood) under any of the conditions outlined below. [Note to employers: Random drug testing is required for level 2 and level 3 for both DFWP and DF-EZ, so if this applies you need to include random drug testing as shown below.]

A. Post-offer, pre-employment [and/or new hire] drug testing

All applicants must undergo a drug test. A contractor whom we designate prior to employment will collect a urine specimen and a federally-certified laboratory will conduct the test. Any offer of employment depends upon satisfactory completion of this examination and/or screening. We and our examining physician will then determine if the applicant can perform the responsibilities of the position. [Note to employers: If your company chooses to use a new hire drug test instead of or in addition to a pre-employment test, it should specify the time period for the test. Typically, the time period is 90 days or the length of your probationary period.]

Drug-Free Workplace Policy for Level 1 and Level 0 Employers (Cont.)

B. Reasonable suspicion testing

We will conduct reasonable suspicion testing when a supervisor suspects an employee may be in violation of this Policy. Management will document the suspicion in writing prior to the release of the test findings. A reasonable suspicion test may occur based on:

- Observed behavior, such as direct observation of drug/alcohol use or possession and/or physical symptoms of drug and/or alcohol use;
- A pattern of abnormal conduct or erratic behavior;
- Arrest or conviction for a drug-related offense or identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking. The employee must notify the company within five working days of any drug-related conviction;
- Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use;
- Newly discovered evidence the employee tampered with a previous drug or alcohol test;
- Reasonable suspicion testing does not require certainty. Mere hunches, however, do not justify testing. To prevent this, we will train all managers/supervisors to recognize drug and alcohol-related signs and symptoms. Testing may be for drugs or alcohol, or both.

C. Post-accident testing

We will conduct post-accident testing whenever an accident occurs. We consider an accident an unplanned, unexpected or unintended event that occurs on our property during the conduct of our business or during working hours, or which involves one of our motor vehicles or a motor vehicle used in conducting company business, or is within the scope of employment and which results in any of the following:

- A fatality of anyone involved in the accident;
- Bodily injury to the employee and/or another person that requires off-site medical attention away from the company's place of employment;
- Vehicular damage in apparent excess of [company fills in the amount];
- Non-vehicular damage in apparent excess of [company fills in the amount].

When such an accident results in one of the situations above, we will test any employee who may have caused or contributed to the accident for drugs or alcohol use, or both.

Drug and/or alcohol testing after an accident

Once we determine a need to test, urine specimen collection (for drugs) or breath/saliva or blood (for alcohol) must occur as soon as possible after we determine a need to test. We will consider any employee who seeks to delay providing a specimen as refusing to be tested.

Employees responsible for a work-related accident in which he or she was injured must grant us the right to request attending medical personnel obtain appropriate specimens. These include breath, saliva and/or blood to conduct alcohol testing and urine to conduct drug testing.

Employees grant us access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the work-related accident. This includes a full medical report from the examining physician(s) or other health-care providers. As a condition of employment, we require a signed consent-to-test form. We reserve the right to determine who may have caused or contributed to a work-related accident. We may also choose not to test after minor accidents if there is no violation of a safety or work rule, minor damage and/or injuries and no reasonable suspicion.

D. Follow-up testing after return to duty from assessment or treatment

We conduct this test of employees who previously tested positive but whose employment we did not terminate. We require a negative return-to-duty test before we allow the employee to return to work. If the employee fails this test, this will result in [employer should insert the consequence]. Once an employee tests negative and returns to duty, management will ensure additional tests occur. Any employee with a second positive test result will be [state the consequences]. Follow-up tests will be unannounced. They may occur at any time for a time period management considers reasonable. The intent is to deter any subsequent use that would violate the company's Policy and result in termination of employment.

E. Random drug testing [Note: this is required of level 2 and level 3 employers]

We conduct random drug testing of all employees on an unannounced basis. Computer software, used by an outside vendor, ensures that random, neutral selection occurs. We include all employees in each random draw. Each

Drug-Free Workplace Policy for Level 1 and Level 0 Employers (Cont.)

employee has an equal chance of selection. Previous selection does not exclude an employee from the random selection process.

Random testing deters drug use in violation of the Policy. It also ensures we maintain confidence in our employees' abilities to perform their duties. We contracted with an outside vendor to handle random testing pools and select employees for drug testing at any time each year.

We will provide employee identification numbers for use in the random drawings. The contractor will, in turn, furnish us with a list of individuals to test at the beginning of each selection period. It's our responsibility to notify each employee of his or her selection. We will also notify each employee of the date, time and location of the random testing.

When notified, it's the employee's responsibility to provide a urine specimen for drug testing. An employee's failure to comply with the request for a specimen for random testing will result in consequences. This may include termination of employment. [Note to employers: 10 percent random testing is required for level 2 and 25 percent for level 3 for employers for both DFWP and Drug-Free EZ, but employers are not required to share the testing percentages.]

III. Substances to be tested for and methods of testing

Systems presence testing is the procedure used. This is how qualified testing professionals identify the presence of one or more of prohibited controlled substances or alcohol that may be present in the employee.

If the initial screening test proves negative, then a negative test is declared. The qualified testing professional does a second test, called a confirmatory test, only if the initial test is non-negative. This means the results came in at or higher than the cut-off level for one or more drugs. There is also a confirmatory test for alcohol when the preliminary test is at or above the specified cut-off level.

Experts and the courts consider the confirmatory test 100 percent accurate. Scientific experts identified standard cut-off levels for each of the tested drugs after years of research. And employers have used these successfully for decades for both federal testing and non-regulated workplace testing (your drug-free program). Professionals use these levels to interpret all drug screens/tests, including the drugs for which testing may occur under our drug-free Policy. We reserve the right to add or delete substances on the list above, especially if mandated by changes in existing federal, state or local regulations or laws.

For alcohol testing, a medical clinic that uses only certified equipment and personnel will conduct testing. We will consider breath alcohol concentrations exceeding [fill in the cut-off level your company has chosen with advice from legal counsel, such as .04] a verified positive result. In the event of an accident where an employee has blood alcohol drawn at a medical treatment facility, we will consider a result equal to or greater than [fill in cut-off level] a verified positive result. The collection site will typically use an Evidentiary Breath Test (EBT) to confirm any initial positive test result performed through saliva or breath testing.

We will terminate employees adulterating, attempting to adulterate or substituting a specimen or otherwise manipulating the testing process. We will consider refusal to produce/provide a specimen a positive test unless there's a verifiable medical reason.

IV. Specimen collection procedure

Trained collection personnel who meet standards for urine collection and breath alcohol testing will conduct testing. We require confidentiality from our collection sites and labs.

We permit employees to provide urine specimens in private, but subject to strict scrutiny by collection personnel. This avoids any alteration or substitution of the specimen.

Likewise, the collection site will conduct breath alcohol testing in an area that affords the individual privacy. In all cases, there will only be one individual tested at a time.

We will consider failure to appear for testing when scheduled refusal to participate in testing. Such failure will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. An observed voiding will only occur if there is grounds for suspecting manipulation of the testing process.

Drug-Free Workplace Policy for Level 1 and Level 0 Employers (Cont.)

V. Review of test results

To ensure we treat every tested employee fairly, the collection site uses the services of an MRO. The MRO is a doctor with a specialized knowledge of substance abuse disorders. He or she can determine whether there are any valid reasons for the presence in the employee's system of the substance that was tested positive. We follow the federal requirement that the MRO may not be affiliated with the federally-certified lab that does the urine analysis.

VI. Employees' rights when there's a positive test result

Upon receipt of a confirmed positive finding, the MRO will attempt to contact the employee by telephone or in person. If the MRO makes contact, he or she will inform the employee of the positive finding. The MRO will give the employee an opportunity to rebut or explain the findings.

The MRO can request information on recent medical history. He or she can also ask for medications taken within the last 30 days by the employee. If the MRO finds support in the employee's explanation, he or she may ask the employee to provide documentary evidence to support his or her position. Evidence can include treating physicians and pharmacies, which filled prescriptions, etc.

A failure on the part of the employee to provide documentary evidence will result in the MRO issuing a positive report with no attendant medical explanation. A medical disqualification of the employee will result. If the employee fails to contact the MRO as instructed, the MRO will issue a report of a positive test result.

VII. Reporting of results

The collection facility will report all test results to the MRO prior to reporting the results to us. The MRO will receive a detailed report of the findings of the analysis from the testing laboratory. The collection facility will list each substance tested along with the results of the testing.

We will receive a summary report, which indicate the employee passed or failed the test. We intend these procedures to be consistent with guidelines for MROs, published by the Department of Health and Human Services.

VIII. Storage of test results and right to review test

We will store all records of drug/alcohol separately from the employee's general personnel documents. We will maintain these records under lock and key. We limit access to designated company officials.

We will use the information only to properly administer this Policy and to provide to certifying agencies for review as required by law. We charge designated company officials with access to records with the responsibility for maintaining their confidentiality. Any breach of confidentiality may be an offense resulting in termination of employment.

Any employees tested under this Policy have the right to review and/or receive a copy of their own test results. An employee may request to receive his or her test results by giving the drug-free coordinator a duly notarized Employee Request for Release of Drug Tests Results form [Note: Employers will need to create this form.]. We will use our best efforts to promptly comply with this request. And we will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

IX. Positive test results

We will immediately take employees found to have a confirmed positive drug or alcohol test off safety-sensitive duties. We will subject these employees to discipline up to and including termination.

X. Termination notices

In those cases where substance testing results in the termination of employment, termination notices will list misconduct as the reason. We will deem termination for cause.

Date: _____

Acknowledgement of Receipt of Drug-Free Workplace Policy

In signing this form, you acknowledge you received a copy of our company's drug-free Policy, had the opportunity to discuss the Policy and had questions answered, and understand all of the provisions in the Policy.

Although it reflects our company's Policy regarding substance use, it may be necessary to make changes from time to time to best serve the needs of our organization. However, we will make any changes deemed necessary in writing. We will share the modified Policy with every employee.

By my signature below, I acknowledge I have received a copy of the drug-free Policy of this company. I understand it is my obligation to read, understand and comply with the procedures and provisions contained within this Policy.

Date signed

Employee's signature

Witness signature

Printed name of employee

Consent and Release Form for Employees/Applicants

I, _____, (applicant or employee name), as an employee/ applicant of the company, hereby acknowledge the company's policy requires me to submit to urine drug testing and/or breath, saliva or blood alcohol testing.

I further understand the purpose of this analysis is to determine or rule out the presence of non-prescribed or prohibited dangerous controlled substances in my system.

I hereby freely and voluntarily consent to this request for a urine sample and/or breath, saliva or blood alcohol test, and agree to participate in the testing program.

I hereby and herewith release the company, its employees, agents and contractors from any and all liability whatsoever arising from this request for testing, from the actual testing procedures and from decisions made concerning my application for or continuation of employment based on the results of the analysis.

I agree to cooperate in all aspects of the testing program.

I hereby authorize the release of my drug and/or alcohol test results to the contractor's medical review officer, and/or to the company's examining physician, as provided by the Policy.

I further acknowledge the company has provided me with an opportunity to ask questions related to its drug and alcohol testing program, and it answered all my questions.

Employee/applicant signature: _____

Employee/applicant printed name: _____

Witness signature: _____

Printed name of witness: _____

Date of signatures: _____

Report of Suspected Job-Regulated Drug/Alcohol Use

We suspect the individual identified below of failing to comply with the company's drug-free Policy.

Employee name: _____ Location: _____

List below all of the behaviors observed by the supervisor that created a concern the employee named above might be in violation of the company's drug-free policy.

If there were observable changes in the employee's job performance, list these behaviors below.

List below any physical signs or symptoms of possible substance use that the employee exhibited.

Eyes: _____

Coordination: _____

Speech: _____

Other: _____

Other pertinent observations: _____

Name and title of supervisor completing report: _____

Name of any other supervisor/management witness: _____

Position: _____

Date: _____ Time: _____ Shift: _____

Testing ordered: Yes No (circle one)

Employee consent to test form obtained? Yes No (circle one)

If testing, date(s) on which testing occurred? _____

Alcohol test? Yes No (circle one) Drug test? Yes No (circle one)

Medical review officer findings: _____

Follow-up actions taken: _____

Company official's signature: _____ Date: _____

Sample Last Chance Agreement

On _____ [date], [choose appropriate company personnel, such as president, drug-free coordinator, human resources manager, etc.] agreed to your request to seek counseling and referral to a rehabilitation program for alcohol and drug use. The conditions listed below apply to your rehabilitation program.

1. You must authorize [choose appropriate employee assistance or treatment program/counselor] to provide proof of enrollment in an alcohol/drug abuse rehabilitation program and proof of attendance at all required sessions on a monthly basis to the company's [supervisor, drug-free coordinator, human resources manager, etc]. The company will closely monitor your attendance and will terminate your employment (cancel this agreement) if you do not regularly attend all required sessions.
2. You will pay for all costs of rehabilitation not covered under the company's benefits plan.
3. During the _____ (identify time frame in terms of months) following completion of your rehabilitation program, the company may test you for alcohol and/or drug use on an unannounced basis to determine if you are in compliance with its drug-free policy. The company will promptly terminate your employment if you refuse to submit to testing or if you test positive.
4. You must meet all established standards of conduct and job performance. The company will terminate you if your on-the-job conduct or job performance is unsatisfactory. Satisfactory performance includes ongoing compliance with the company's drug/alcohol testing policy, including testing if there is reasonable suspicion of a violation of the prohibition of use.
5. Nothing in this agreement alters your employment status. The company hopes its employment relationship with you will be a happy and enduring one. Nevertheless, you remain free to resign your employment at any time for any or no reason without notice. Similarly, the company reserves the right to terminate you, for any or no reason, without notice. No one can alter your at-will status except our president, in writing.

I voluntarily agree to all of the above conditions and authorize [treatment program/counselor, employee assistance provider] to provide my supervisor with proof of my enrollment and attendance at the recommended rehabilitation program.

Date agreement signed

Company name

Employee signature

Company representative signature

Signature of witness



Ohio Bureau of Workers' Compensation
 Employer Programs
 30 W. Spring St., 22nd floor
 Columbus, OH 43215-2256

Drug-Free Self-Assessment Progress Report

You may not submit this form and attachments by fax. Please return the completed form and requested information to BWC at the address shown above.

Employer name: _____ Policy number: _____

Address: _____

Current program level: _____ Federal ID: _____

This form is the annual report of progress due by the nine-month mark of each program year (by Sept. 30 for the January program year and by March 31 for the July program year). Please fill in the requested information below with the understanding you must submit **all** attachments. If you check the **No** box in response to any of the Yes/No questions, you need to attach an explanation since each of these questions involves a requirement to remain in BWC's DFWP or DF-EZ programs.

Contact person/phone

 Printed name ()
 Phone number

Program Information

*Level 0/comparable means comparable to Level 1, but is a category for state construction contractors only, and participants receive no discount from BWC.

Check the requested level for the next program period (check one only).

*Level 0/comparable
 Level 1
 Level 2
 Level 3

Please answer each statement below and on the reverse side by checking the appropriate Yes/No box or providing requested information as well as checking the box next to each required attachment to show you've included it/them.

1. Our company has developed a written substance policy that complies with BWC's DFWP or DF-EZ requirements for my current program level. Yes No

Required attachment: Copy of written substance policy [to be submitted your first program year only] Yes No

2. Our company has initiated and is maintaining employee education and supervisor training that complies with program requirements. Yes No

Required attachments: Copy of a sign-in sheet for one education session and one training session Yes No

One invoice from an education provider and one from a training provider Yes No

Below, please include the names of drug-free education/training service providers used this program year.

Name(s) of those who provided education/training and company name for each **Date(s) held**

3. My company has initiated and is maintaining the full range of substance testing in compliance with our program level. Yes No

Number of employees (average number for the program year): _____

Number of new hires during this program year: _____

Program Information

Employer name: _____ Policy number: _____

Check each type of testing done.

	Number of tests		
	Positive tests	Negative tests	Total tests
<input type="checkbox"/> Pre-employment and/or new hire drug testing	_____	_____	_____
<input type="checkbox"/> Reasonable suspicion drug/alcohol testing	_____	_____	_____
<input type="checkbox"/> Post-accident drug/alcohol testing	_____	_____	_____
<input type="checkbox"/> Return-to-duty, other follow-up drug/alcohol testing	_____	_____	_____
<input type="checkbox"/> Random drug testing (Level 2, Level 3, and/or state construction if required)	_____	_____	_____

My company is using the collection/testing services of the following testing providers:

_____ (name of collection site or consortium);
 _____ (name of contact person at collection site or consortium);
 _____ (phone number of collection site);
 _____ (name of certified medical review officer used);
 _____ (SAMHSA-certified laboratory used for urine analysis).

Required attachments: Copy of an invoice for testing from a collection site Yes No

4. Our company provides employee assistance in accordance with the DFWP or DF-EZ program level in which we are participating. Yes No

5. (Completed by level 2 or level 3 employers only): Our company is implementing the appropriate steps of BWC's 10-Step Business Plan. Yes No

Check each step of BWC's 10-Step Business Plan that your company has implemented.

Step 1 Step 2 Step 3 Step 4 Step 5
 Step 6 Step 7 Step 8 Step 9 Step 10

Required attachments: Copy of safety policy required for Step One, signed by CEO Yes No

Your signature below, as the designated employer representative for this employer, signifies you have submitted a complete and accurate report. If your company fails to submit a fully completed *Self-Assessment Progress Report* and required attachments by the required deadline or has failed to meet all program requirements, the bureau will remove it from BWC's DFWP or DF-EZ.

In addition, if you are a state construction contractor, BWC will remove you from its database. You will no longer be eligible to bid or work state construction projects.

BWC may conduct an audit of any participating employer's program. Your signature constitutes acknowledgment of the possibility of BWC auditing you. It also indicates your willingness to cooperate with such an audit as a condition of program participation.

I hereby certify my organization has implemented all components of DFWP or DF-EZ in accordance with, at minimum, the requirements specified for our approved program level. I understand that my signature constitutes my company's certification of compliance with BWC's program requirements and – if this *Self-Assessment Progress Report* and/or any attachments are not accurate – that this is a fraudulent representation that may lead to legal action under the applicable fraud statutes. It may also result in the taking back of discounts and removal from current and/or future program participation.

Signature of designated management representative submitting report

Date of submission

Printed name of designated management representative signing above

Report due date

