

Drug-Free Workplace Policy [Template]

[Insert
company logo
here]

[Note to employer: This policy meets Federal Requirements for a Drug-Free Workplace. Before finalizing, review and delete text inside brackets. Replace grayed out **COMPANY NAME** text with your company name and insert logo.]

PURPOSE

Illegal drug use, excessive alcohol use, and misuse of prescription drugs can affect the work environment by contributing to health and safety hazards and other negative consequences. **COMPANY NAME** has established a drug-free workplace policy to protect the safety, health, and well-being of our employees.

POLICY

Employees of **COMPANY NAME** are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4181).

[Include the following Alcohol and Drug Testing section if you intend to have alcohol or drug testing.]

ALCOHOL AND DRUG TESTING

As a condition of employment, employees of **COMPANY NAME** may be required to participate in alcohol and drug testing for the following reasons:

- Post-Offer, Pre-Employment

[The employer should test only after they have extended a formal offer of employment. The job advertisement or application should explicitly state the requirement of pre-employment drug testing. Applicants for employment are generally considered to have a lesser expectation of privacy than current employees. Nevertheless, before testing an applicant the employer should determine whether it has a legitimate business interest that outweighs the applicant's privacy interests.]

- Reasonable Suspicion

[Drug testing of an existing employee is generally permitted where the employer has a reasonable suspicion that an employee is under the influence while at work. Signs of impairment could include bloodshot eyes, poor coordination, drowsiness, or odor. Employers should document the basis for testing a particular employee by filling out a

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reasonable suspicion checklist. It is a best practice to have at least two witnesses observe the employee and sign off on the checklist.]

- Post-Accident/Injury

[Drug testing of an existing employee is generally permitted after the employee has been involved in a work-related accident or endures a work-related injury, but only where there is a reasonable possibility that the use of drugs or alcohol was a contributing factor to the reported accident or injury.]

- Random

[Generally, random drug testing violates employees' privacy rights unless the position is safety-sensitive, e.g., it requires operating a vehicle or heavy machinery. Regardless of the level of testing implemented by an employer, testing should generally be conducted under specific policies and procedures that have been made known to applicants and employees. Ideally, employees subject to reasonable suspicion, post-accident/injury, or random testing should be provided with a copy of the employer's drug testing policies and procedures upon commencing employment or upon the implementation of a new or updated policy. Employers also should consider implementing within their policies procedural safeguards to mitigate the impact on employees and their privacy. These might include the following:

- Advance notification (for example, 30 days before implementing random testing)
- Doing all testing at a medical facility with privacy safeguards
- Providing employers only with "pass or fail" test results
- Retesting to confirm positives (split samples)
- Not terminating employees for first-time positives
- Offering employees assistance through Employee Assistance Programs
- Last Chance Agreements

Finally, employers should state in their testing policy that applicants and employees who lawfully use medication (including medical marijuana in states that permit its use) to treat a medical condition may request reasonable accommodations. However, there are no legal requirements to allow work time use of any medication that causes impairment.]

- Follow-up

[If company is instituting a Second Chance agreement option, then follow-up testing may also be required in some situations. The number and frequency of follow-up testing is directed by the substance use professional, with a minimum of once per quarter for one year after returning to work.]

The drug tests will screen for the following substances *[Employers: modify list to include the substances your company tests for]*: amphetamines (stimulants), opiates (analgesics), alcohol (depressant), barbiturates (depressant), benzodiazepines (tranquilizers), cocaine, and phencyclidine (PCP or hallucinogen).

VIOLATIONS

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Employees substantially in violation of this policy, who test positive on a drug screening, or who refuse drug screening may be terminated or face other penalties. Continued employment may be contingent upon the satisfactory participation in a [substance use treatment, rehabilitation, or Second Chance Agreement program].

[Include the following Second Chance Agreement section if you intend to allow for “second chances” in your Drug-Free Workplace Policy. A second chance policy is cost effective for employers and unions and helps them retain employees and save on hiring and training costs. A second chance is intended for employees who show a genuine desire to become drug-free before returning to work. Many employees who use substances want to stop but are not successful on their own. A second chance policy provides them an opportunity to receive the treatment and support they need to succeed. Employees who are unwilling to go to treatment or who are unable to abide by the second chance agreement may need to be terminated.¹]

SECOND CHANCE AGREEMENT

Any employee who violates this policy and is subject to disciplinary action including termination may request to participate in a Second Chance Agreement. The request for a Second Chance Agreement must be approved by [Management, HR] and will be granted at the discretion of COMPANY NAME based on the totality of the circumstance. If approved, the employee must comply with the following conditions:

- Agree to receive treatment from [the Employee Assistance Program (EAP) or a substance use treatment provider], go through an initial evaluation, and agree to comply with all of the recommendations made by the provider. The first consultation must be scheduled no later than one week from the date of the agreement. All costs of medical consultation and treatment will be the responsibility of the employee and the employee’s medical insurance (as applicable). Treatment should be scheduled during nonworking hours, when possible unless approved by [Management, HR] in advance.
- If absence from work is necessary as part of the treatment or rehabilitation, the employer will designate the absence as a Family and Medical Leave Act (FMLA) absence as long as all FMLA requirements under the company's policy, including medical certification, are met. Available accrued sick leave, vacation and personal leave will be used concurrently with the FMLA leave.
- Completion of follow-up outpatient treatment to monitor progress after return to work as recommended by the substance use provider.

¹ Dale, A. M., Biver, S., & Kurtz, S. (n.d.). Workplace guidelines to prevent opioid and substance abuse for the construction trades.

https://hwc.public-health.uiowa.edu/wp-content/uploads/Workplace-Opioid-Prevention-Program-Guidelines-for-Construction_v3.0.pdf

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- Abstain from using alcohol or controlled substances while performing job responsibilities.
- Submit to unannounced periodic, follow-up drug and/or alcohol screening as determined by [COMPANY NAME] for [12 months]. Refusal to submit to testing, or positive test results in violation of the drug and alcohol policy, will result in immediate termination.
- Meet all expected job performance standards and general [COMPANY NAME] policies as established for all employees.
- Agree to sign the appropriate authorization to allow the [HR representative] to receive information from the [substance use professional or EAP] regarding completion of the program.

EXCEPTIONS

This policy does not apply to the appropriate use of prescription medications to manage conditions when the employee's prescribing physician has determined that the medication (a) does not interfere with the employee's ability to fulfill their job duties and (b) that the medication does not pose a threat to the health and safety of the employee or to others. [COMPANY NAME] will place restrictions on work tasks for employees with acute or chronic conditions who are prescribed opioids or other medications that may interfere with an employee's ability to perform job duties safely to protect the health and safety of all employees.

DRUG-FREE AWARENESS PROGRAM

Upon hire, employees shall receive a copy of this policy and participate in training that covers:

- The dangers of drugs in the workplace
- [COMPANY NAME] policy of maintaining a drug-free workplace
- Available drug counseling, rehabilitation, and employee assistance programs
- The penalties that may be imposed on employees for violations of the policy

REQUIRED NOTIFICATIONS

As a condition of employment, the employee will:

- Abide by this policy
- Notify [HR representative] of any criminal drug statute conviction for a violation occurring *in the workplace* no later than 5 days after the conviction

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Policy Contact: Contact [staff] with questions or concerns.

Effective Date: The policy is effective [date].

Review Date: The policy will be reviewed [annually].

Adapted from [Employer Guide to Preventing Opioid Harms in the Stone, Sand, and Gravel Mining Sector](#), [Kentucky's Education and Labor Cabinet's Drug-Free Workplace Policy](#), and [Iowa Illinois Safety Council and MRA – The Trusted HR Expert's Drug and Alcohol – Last Chance Agreement](#).