



Member Resource Committee Sample Policy Workplace Drug and Alcohol Testing Sample Policy

Purpose: These policies are used by crime laboratories to provide guidance to staff/managers with respect to drug and alcohol testing programs set forth to maintain a workplace free at all times from the adverse effects of illegal drug use and alcohol abuse.

Workplace Drug and Alcohol Testing Sample Policy A

All employees must receive a copy of this Policy and sign a statement upon receipt acknowledging that it is a condition of employment.

- A. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by any employee which takes place in whole or in part in the employers' workplace is strictly prohibited. The term "controlled substance" means a controlled substance in Schedule I - V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).
- B. Any employee convicted of any Federal, State or Local criminal drug statute within the workplace, must notify the employer in writing of that fact within five (5) calendar days of the conviction.
- C. Any employer receiving Federal funds, who is notified by an employee of a workplace-related drug conviction, must report it to the Contracting Agency within ten (10) calendar days of learning of such conviction. Any conviction not reported may result in loss of Federal funds.
- D. The employer must, within thirty (30) days after receiving notice of a conviction from an employee:
 - 1. take appropriate personnel action against such employee up to and including termination, OR
 - 2. require such employee to satisfactorily participate in a drug rehabilitation program.
- E. Any employee who fails to report a workplace-related drug conviction:
 - 1. will be terminated from employment, and
 - 2. may be held civilly liable for any loss of Federal funds resulting from the failure to report the conviction.
- F. Any employee who is referred to a drug rehabilitation program (see D.2 above) and fails to satisfactorily participate in the program will be terminated from employment.
- G. DRUG SCREENING



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1. Pre-Employment Testing

- a. All applicants for employment for certain specified positions shall be required to submit to a screen for certain controlled substances within 72 hours of receiving a job offer. Said job offer shall be contingent upon the applicant's passing the screen. Human Resources shall review the job content of each position to determine the necessity of requiring pre-employment drug testing. The decision to require preemployment drug testing will be based on the employer's interest in insuring the safety of its employees and the general public. All candidates for employment in these designated positions will be informed of the necessity for pre-employment drug testing at the time of application or interview.
- b. The test shall take place at a site determined by the employer, and the analysis shall be performed by a laboratory selected by the employer. The laboratory shall be certified by the appropriate authority. The cost of the screen shall be borne by the employer, although transportation to and from the screening site shall be the responsibility of the applicant.
- c. All positive screens shall be reviewed by a Medical Review Officer (MRO) who shall be a licensed physician. All decisions of the Medical Review Officer shall be final. Failure to successfully pass the drug screen shall render the applicant "not eligible for employment."
- d. Individuals who refuse to consent to the drug screening procedure, or fail to appear for the testing within the prescribed time requirement, will be ineligible for employment.

2. "Reasonable Suspicion" Testing

A supervisor or Department Head may require an employee to undergo testing for alcohol or certain controlled substances based upon specific, objective facts and reasonable inferences drawn from these facts. The supervisor or Department Head should consult with another member of management or personnel staff to corroborate and document observations before ordering the test. Such facts and inferences may be based on, but are not limited to, any of the following:

- a. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution during or immediately preceding work time; or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred speech, dilated pupils, odor of alcohol or marijuana, disorientation, dynamic mood swings, etc.



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- b. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance (e.g., frequent absenteeism, excessive tardiness, recurrent accidents, etc.) which appears to be related to substance abuse or alcohol 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 misuse or abuse during or immediately preceding work time provided by a reliable and credible source;
- e. Repeated or flagrant violations of the Employer's safety or work rules which pose a substantial risk of physical injury or property damage and which appear to be related to substance abuse or substance use and do not appear attributable to other factors.
- f. All employees are prohibited from engaging in the following:
 - 1.) Reporting to duty or remaining on duty while having a breath alcohol concentration of .04 or greater. Note that this is consistent with requirements contained in Section of this Manual.
 - 2.) Reporting to duty or remaining on duty while using a controlled substance (including prescription drugs that impair the employee's ability to perform the assigned duties or jeopardize the safety of others;
 - 3.) Testing positive for controlled substances. (All positive screens shall be reviewed by a Medical Officer who shall be a licensed physician. All decisions of the Medical Review Officer shall be final.);
 - 4.) Using or possessing alcohol or illegal and/or non-prescribed controlled substances while on duty;
 - 5.) Refusing to submit to a controlled substance or alcohol test when ordered to do so.
- g. If an employee violates any of the prohibitions listed in Paragraph f. above, the employee is subject to the following consequences:



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- 1.) The employee may be disciplined up to and including dismissal.
 - 2.) The employee may be reassigned.
 - 3.) The employee will be referred to the Employee Assistance Program.
 - 4.) The employee will be subject to reevaluation, return to duty testing, and unannounced follow-up testing.
 - 5.) The employee may be denied workers' compensation benefits.
- H. The Human Resources Department shall establish, maintain and communicate standard operating procedures (SOPs) for effectively administering this policy in accordance with applicable laws and regulations and in cooperation with affected departments and agencies.

Workplace Drug and Alcohol Testing Sample Policy B

Pre-employment drug testing of candidates; for the purpose of this policy, pre-employment may include promotion of current employees

NOTE – the current interpretation of labor agreement language precludes our agency from conducting random drug testing on current employees (absent promotion)

Policy Statement / Objective:

As an organization charged with enforcing the laws of the State, it is incumbent upon the XX to assure that people hired by the XX do not use drugs illegally. Further, the XX has an obligation to ensure that its employees perform their jobs efficiently, safely and in a professional, business-like manner as the credibility of the staff reflects the credibility of the organization. For those reasons, the XX will conduct pre-employment drug testing on persons to whom a job offer has been made.

Policy:

It is the policy of the XX to conduct pre-employment drug screening on all applicants offered employment as allowed by State policy and State Statute, the Drug and Alcohol Testing in the Workplace Act. All applicants have the right to refuse to undergo the pre-employment drug screening, however, failure to consent to the screening will result in the withdrawal of the job offer. In accordance with statute, positive test results from the drug testing program will not be used as evidence in a criminal action against the job applicant tested.



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1. All persons will be notified at the time they apply for a position with the XX that pre-employment drug testing will be conducted after a conditional job offer has been made.
2. When a job offer is made, it will be made in writing with the offer contingent upon the successful completion of the background check including a pre-employment drug screening.
3. A testing laboratory that has been licensed by the Commissioner of Health will perform all drug testing and analysis.
4. Prior to requesting the job applicant to undergo testing, a copy of the drug testing policy shall be provided to the applicant
5. The applicant will be provided with a consent form which:
 - a. Acknowledges that the applicant has read and understands the agency's policy on drug testing.
 - b. Provides the applicant with the opportunity to list any over-the-counter or prescription medications that they are currently taking or has taken within the last sixty days and allows the applicant the opportunity to provide any other information relevant to the reliability of or explanation for a positive test result.
 - c. Withdrawal of a job offer, due to a positive result, will not occur until the results are verified by a confirmatory test.
 - d. Costs for the initial screening and any required confirmatory tests will be borne by the XX.

Rights of Applicants

Applicants requested to undergo pre-employment drug testing have all rights specified in Stat. These include:

1. The right to receive the test results within three working days of the receipt of the results by the employer.
2. The right to receive a copy of the test results from the employer
3. The right to request in writing, within five working days after receiving the notice of a positive confirmatory test result, a confirmatory re-test of the original sample
4. The right to submit information explaining the test results to the agency within three working days after receiving the notice of a positive confirmatory test.

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The purpose of this policy is to serve as a supplement to Department of Human Resource Management (DHRM) Policy 1.05, *Alcohol and Other Drugs*, by outlining the guidelines and procedures by which the laboratory will administer its drug and alcohol testing program and by establishing standards that allow the laboratory to maintain a workplace that is free at all times from the adverse effects of illegal drug use and alcohol abuse.

I. PURPOSE

The purpose of this policy is to serve as a supplement to Department of Human Resource Management (DHRM) Policy 1.05, *Alcohol and Other Drugs*, by outlining the guidelines and procedures by which XXX will administer its drug and alcohol testing program and by establishing standards that allow XXX to maintain a workplace that is free at all times from the adverse effects of illegal drug use and alcohol abuse.

II. AUTHORITY

This policy is issued under the delegated authority granted to the XXX Director by Code § 9.1-1100 and considers the policy requirements of State central agencies as outlined in XXX Policy 101-D101, *Developing and Communicating Administrative Policies and Procedures*, paragraph II, Authority.

III. APPLICABILITY & RESPONSIBILITY

This policy applies to all XXX employees, including classified, at-will, and wage employees. It should be used in conjunction with DHRM Policy 1.05.

It is the responsibility of all employees to review this XXX policy as well as the *Acknowledgment of Receipt of the Drug and Alcohol Testing Policy* and sign and date the *Certificate of Receipt* (XXX Document 108-F180) to be placed in the employee's personnel file.

It is the responsibility of the Human Resource (HR) Director to make sure that all staff members of the Department are aware of the contents of this policy, and specifically, to provide training for supervisors on 1) how to recognize behaviors that may indicate impairment from alcohol and other drug use, 2) appropriate referral techniques, and 3) resources for rehabilitation for alcohol and other drug abuse.

It is the responsibility of all XXX supervisors to document and report suspicious behavior, advise subordinate staff, and enforce the provisions of this policy.

IV. DEFINITIONS

Alcohol – any product defined as such in the Alcohol Beverage Control Act, section 4.1-100 of the Code of XXX, as amended.



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Agency-wide Testing – testing to be done on all employees at implementation of this program.

Drug – a substance whose manufacture, distribution, dispensation, use, or possession is controlled or prohibited by law (to include marijuana); any substance defined as a controlled substance in the Drug Control Act, Chapter 34, Title 54.1 of the Code of XXX, as amended.

Employee Assistance Program (EAP) – a confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic as part of the health plan coverage. The EAP helps participants deal with problems affecting personal and work life, including alcohol and substance abuse.

Medical Review Officer (MRO) – a nationally certified, licensed physician with toxicology and substance abuse expertise who is contracted by, but functions independently of, the testing laboratory and is responsible for receiving and reviewing laboratory results generated by the drug and alcohol testing program.

Prescription Drug – any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353 (b)).

Qualified Laboratories – laboratories certified by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) as meeting the requirements set forth in 49 CFR Part 40 of the U.S. Department of Transportation regulations (DOT) for drug testing specimen analysis.

Random Sample – a sample that is drawn from a defined population so that each member of the population has an equal chance of being selected.

Reasonable Suspicion Testing – testing that is performed when behavioral evidence, based on specific and articulable facts that are considered in context with the totality of the circumstances, would lead an ordinarily prudent and cautious person to believe that an individual is under the influence of alcohol or other drugs.

V. POLICY

Due to the nature of the work performed by XXX and the unique responsibilities placed upon the Department by law enforcement, the judicial system and the citizens of the Commonwealth, it is the policy of XXX to maintain a workplace that is free from the harmful effects of drug and alcohol abuse. The safe and efficient operation of the Department is dependent upon employees who are not illegally using drugs and are not under the influence of alcohol while at work or in a XXX facility. The illegal use of drugs by employees undermines the Department's



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ability, as well as the public's perception of the Department's ability, to perform its mission of protecting public safety. Therefore, XXX prohibits the illegal or unauthorized use, sale, dispensation, distribution, manufacture or possession of alcohol or drugs (including prescription drugs).

XXX will strictly adhere to the guidelines set forth in DHRM Policy 1.05. Additionally, XXX reserves the right to test for drugs or alcohol on a pre-employment, agency-wide, random, and reasonable suspicion basis. Any employee who tests positive for drugs or alcohol (.02 g/210L of breath or greater) or refuses to submit to testing will be subject to discipline in accordance with DHRM Policy 1.60, *Standards of Conduct*, up to and including termination.

XXX shall pay for all required drug and alcohol tests for employees. During sample collection, employees are considered to be at work and will not be required to submit leave for the time required for testing.

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Resource:

www.samsha.gov/workplace/resources