

# Sample Substance Abuse Policy Development Instructions

**This Policy Statement provided below is a sample that can serve as a basis for your company's drug free workplace policy. Employers may modify it to comply with their own needs. The final version of your policy should be printed on company letterhead, continually posted in a conspicuous spot and provided to all current and future employees. This policy includes some of the state of the Tennessee Bureau of Workers' Compensation's Drug Free Workplace Program's requirements for your company to be eligible to receive the benefits of joining the program.**

## How to revise the Sample Substance Abuse Policy

**There are a few steps that you need to complete to make this program your own:**

1. Put your policy on your company letterhead.
2. If you copy and paste portions of this document into your policy, insert your company's name at the appropriate places.
3. Add the date you will begin or did begin implementing your drug-free workplace policy.
4. Select the appropriate paragraphs concerning your Employee Assistance Program (EAP) and delete the paragraphs of that section that do not apply to your business.
5. If you do not offer an EAP, you should create a resource file of local employee assistance providers to meet the requirements of this section. Your company is not required to pay for an employee assistance program for your employees; **however, you are required to provide a resource file of employee assistance providers in your area.** To find providers in your area, conduct an internet search of "substance abuse treatment facilities."
6. It is important that a copy of this policy be covered with and given to each of your employees along with a copy of the Active Employee Certificate of Agreement. Employees should be required to sign that agreement form and return it to your Human Resources representative to be placed and maintained in employee personnel files.

To receive the workers' compensation premium credit, please send a completed Drug Free Workplace Program Application to the address provided below. A renewal application should be submitted each year upon the renewal of your workers' compensation insurance policy.

Tennessee Bureau of Workers' Compensation  
ATTN: Drug Free Workplace Program  
220 French Landing Drive  
Nashville, Tennessee 37243  
Or

Fax: 615-253-5265

Email: [dfw.program@tn.gov](mailto:dfw.program@tn.gov)

## Sample Substance Abuse Policy

Date \_\_\_\_\_

[**Insert Company Name**] is committed to providing a safe work environment and to fostering the health and well-being of its employees. That commitment is jeopardized when any of our employees illegally use drugs at home or at work, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job.

As part of our commitment to safeguard the wellbeing of our employees and to provide a safe environment for everyone, [**insert Company Name**] has established a drug-free workplace policy, is participating in the Tennessee Bureau of Workers' Compensation's Drug Free Workplace Program and has established the following substance abuse policy

- (1) It is a violation of company policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job,**
- (2) It is a violation of company policy for any employee to report to work, be at work or to engage in work under the influence of or while possessing in his or her body, blood or urine, illegal drugs in any detectable amount.**
- (3) It is a violation of company policy for any employee to report to work, be at work or to engage in work under the influence of or impaired by alcohol.**
- (4) It is a violation of the company policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner, amount or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications. While this company understands that employees and applicants under a physician's care may be required to use prescription drugs, the illegal use of prescribed medications will be dealt with in the same manner as the abuse of illegal substances. An employee or job applicant may confidentially report the use of prescription or nonprescription medications to a medical review officer, both before and after a drug/alcohol test, by contacting the medical review officer directly.**

Violations of this policy are subject to disciplinary action up to and including termination.

Everyone shares responsibility for maintaining a safe work environment and co-workers should encourage anyone who has a drug problem to seek help. The ultimate goal of this policy is to balance our respect for individual privacy with our need to keep a safe, productive, drug-free work environment. We strongly encourage those who use illegal drugs or abuse alcohol to seek help in overcoming their problem.

## **DRUGS BEING TESTED**

As a participating employer in the Tennessee Drug Free Workplace Program, this company is required to test for the following drugs:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines
- Opiate metabolites
- Phencyclidine (PCP)

Important note: these drugs come in many different forms and have various “street names.”

Our company has chosen to expand our drug testing to include the following drugs:

- **Insert, individually, all additional drugs being tested**

An employee whose normal faculties are impaired due to alcoholic beverages, or whose blood alcohol level tests **XX%** by weight for non-safety sensitive positions, or .04% for safety sensitive positions, while on duty/company business shall be considered a violation of this policy.

## **TYPES OF DRUG/ALCOHOL TESTING TO BE PERFORMED**

It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

### **1. Pre-Employment/Job Applicant Testing**

All job applicants who have been offered employment at [**insert Company name**] must undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result may be denied employment.

Notices will also be placed on vacancy announcements for positions which require drug or alcohol testing. Applicants will be required to submit to a urinalysis test at a laboratory chosen by this Company. If the physician, official or lab personnel have reasonable suspicion to believe that the job- applicant has tampered with the specimen, the applicant will not be considered for the position.

This Company will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that this Company will not tolerate.

### **2. Reasonable suspicion testing**

“Reasonable suspicion” is based on a belief that an employee is using or has used drugs or alcohol in violation of this company’s policy and is based on specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:

- (A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- (B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- (C) A report of substance abuse provided by a reliable and credible source;
- (D) Evidence that an individual has tampered with any substance abuse test during his or her employment with this company;
- (E) Information that an employee has caused or contributed to an accident while at work;
- (F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer’s premises or while operating the employer’s vehicle, machinery, or equipment; or
- (G) Involvement in an accident which results in an injury to another individual or in property damage exceeding Five Thousand Dollars (\$5,000.00), or such minimum amount as set by U.S.DOT Guidelines, if less.

### **3. Routine fitness-for-duty drug or alcohol testing**

Employees must submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by; law, regulation, are part of this company’s established policy, or one that is scheduled routinely for all members of an employment classification group.

### **4. Follow-up to a positive test**

For at least once per year for a two (2)-year period following a positive drug or alcohol test, employees must submit to a follow-up drug test, alcohol test, or both, as appropriate. In cases in which an employee voluntarily entered treatment not based on an employer-administered drug or alcohol test, the follow-up test is not required.

### **5. Post-accident**

All employees must submit to a test after a work-related accident which results in an injury to the employee, at the time the injury is reported. Emergency medical care shall

not be withheld or delayed for collection of drug and/or alcohol test specimens.

### **Refusal to Submit to a drug or alcohol test**

Failure to submit to a required substance abuse test shall be considered misconduct and shall be subject to discipline up to and including termination and the potential forfeiture of workers' compensation benefits.

### **OPPORTUNITY TO CONTEST OR EXPLAIN TEST RESULTS**

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer. If an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the company. A person may contest the drug test result pursuant to rules adopted by the Drug Free Workplace Program of the Tennessee Bureau of Workers' Compensation.

### **CONFIDENTIALITY**

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained as required by the rules adopted by the Drug Free Workplace Program of the Tennessee Bureau of Workers' Compensation.

***If you are including a designated EAP in your company's program, add the following language to your policy:***

**[Insert Company name]** offers a helping hand to those who need it while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment here. We offer an Employee Assistance (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short-term counseling for employees and their dependents who need or request it. Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to supervisors, nor will it be included in your permanent personnel file.

It is the responsibility of an employee to seek assistance from an EAP *before* alcohol and drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently seeking treatment through an EAP on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action.

[**Insert Company name**]'s EAP will provide appropriate assessment, evaluation and counseling and/or referral for treatment of drug and/or alcohol abuse. Employees may be granted leave with a conditional return to work, contingent upon successful completion of the agreed-upon treatment regimen, which may include follow-up testing.

If an EAP referral to a treatment provider outside the EAP is necessary, costs may be covered by your medical insurance; but the costs of such outside services are your responsibility.

Participation in the EAP will not affect your career advancement or employment, nor will it protect any employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not as a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor.

***If you are not contracting with a designated EAP, but are providing a directory of local EAP/substance abuse treatment providers instead, add the following paragraph to your policy:***

Although [**insert Company name**] does **not** maintain an Employee Assistance Program (EAP), we do offer information on various means of employee assistance available in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this information; which is located [**insert where**].

It is the responsibility of an employee to seek assistance before alcohol and drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently seeking treatment on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of disciplinary action.

Additionally, your personal medical provider can give an appropriate assessment, evaluation and counseling and/or referral for treatment of drug and alcohol abuse. Employees may be granted leave with a conditional return to work, depending on successful completion of the agreed-upon treatment regimen, which may include follow-up testing.

The cost of seeking assistance will be the responsibility of the employee and is subject to provisions of Company's health insurance plan, if any. Please consult the insurance provider for specifics concerning this issue.

***If your company is subject to the requirements of the Drug-Free Workplace Act of 1988 (By nature of a grant/contract with the Federal Government) you should add the following statement to your drug policy:***

As a condition of employment, employees must abide by the terms of this policy and must notify The Company in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

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Employee signature

Employee printed name

Date

SAMPLE