

Drug-Free Workplace Initiative **BUSINESS TOOLKIT**



a program of the
McMinnville Area Chamber of Commerce



Promoting healthy communities





Workplace substance abuse is a major obstacle to business success

Three-quarters of illegal drug users are employed.

Eighty percent of binge or heavy alcohol users are employed.

The percentage of Oregon employers identifying substance abuse as a concern rose to an unprecedented high (60%) in 2003.

Methamphetamine is the fastest growing illegal drug of choice among workers.

One in 20 fail pre-employment drug tests in Oregon, although some smaller employers report 60-80% positive rates.

Only 13% of employers with at least three employees have in place the five essential components of a drugfree workplace program.

Drug use costs Oregon employers \$50-\$100 million per year.

“Oregon’s drug-free workplace campaign will help businesses overcome such obstacles as lack of time, money, and expertise, and the fear of losing up to half of their workforce.” Don Skundrick, Vice President, LTM, Inc. & Chair, Oregon Business Plan Drug-free Workforce Initiative

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This Toolkit presented to you by:



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I. Essential Elements of a Drug-free Workplace Program

A comprehensive drug-free workplace program includes:

- a clear, written policy
- employee education
- supervisor training in policy implementation
- an Employee Assistance Program
- drug testing.

The following chapters in the Business Toolkit will address each element to help you strike the right balance between:

- The rights of employees and employers
- The need to know and rights of privacy
- Detection and rehabilitation
- Respect for employees and the safety of all.

The Toolkit utilizes the US Dept. of Labor Drug-Free Workplace Advisor at <http://www.dol.gov/elaws/asp/drugfree/drugs/screen2.asp>. The Advisor is designed to help you examine the impact of drugs on your organization, determine whether any federal or state laws apply to your situation (such as the Drugfree Workplace Act of 1988 or the Dept. of Transportation industry-wide standards), and generate a draft policy statement.

The McMinnville Area Chamber also will provide drugfree workplace policy writing workshops, supervisor trainings and business-to-business mentors. For more information contact Celia Wheeler at the Chamber at (503) 472-6196.

My employees had been screwing up jobs, showing up late, not completing on time. There had been a lot of fighting about who didn't want to work with whom. I had to fire half my crew (when enforcing my drug policy) but I recouped the expense in 5 months. The cost was well worth it and now people book their jobs with my company because they know it's drug-free. I challenge all the employers in our community to take the stand I have. The business community has the opportunity to make a difference in the fight against drug abuse. Who can risk a meth addict driving a company vehicle or burglarizing a client's home?

Frank Garrett, Frank's Quality Wood Floors, Bend

A. Written Policy

Begin by developing your policy. A written drug-free workplace policy is the cornerstone of your program.

Every organization's policy should be unique and tailored to meet its specific needs; however, all effective policies have a few aspects in common, including:

- **Why the policy is being implemented.** Rationale can be as simple as a company being committed to protecting the safety, health and well being of its employees and customers and recognizing that abuse of alcohol and other drugs compromises this dedication.
- **A clear description of prohibited behaviors.** At a minimum, the policy should include the following statement: "The use, possession, transfer or sale of illegal drugs by employees is prohibited."
- **An explanation of the consequences for violating the policy.** These may include discipline up to and including termination and/or referral for assistance. Consequences should be consistent with existing personnel policies and procedures and any applicable state laws.

To draft your policy, you may use the recommended language provided by Barran Liebman LLP Attorneys which appears **IV. Policy Template** (also downloadable from www.workdrugfree.org). It provides useful definitions and sample language, including how to address the use of prescription drugs and medical marijuana.

You may also visit the U.S. Dept. of Labor Program Builder at <http://www.dol.gov/elaws/asp/drugfree/drugs/screen2.asp>. You will be asked to choose program and policy options for your organization, such as who will be covered by your policy, when will the policy apply, etc. The program will generate a draft policy statement based on your choices.

We strongly recommend that you participate in Chamber-sponsored policy writing workshops, and have your policy reviewed by a labor/employment attorney before distribution and implementation. A partial list of legal policy experts appears below. Contact the McMinnville Chamber for additional resources.

- **Haugeberg, Rueter, Gowell, Fredricks, Higgins & McKeegan, PC, McMinnville, (503) 472-5141**
- **Fredrick, Finch & Noble, LLP, McMinnville, (503)435-1455**
- **Paula Barran, Barran Liebman LLP, (503) 276-2143, www.barran.com**

B. Supervisor Training

After developing a drug-free workplace policy, an organization should train those individuals closest to its workforce—its supervisors. Training should ensure that supervisors understand:

- The company drug-free workplace policy
- Ways to recognize and deal with employee performance problems that may be related to alcohol and other drugs
- How to refer employees to available assistance.

In relation to the company drug-free workplace policy, supervisors' responsibilities should include monitoring employees' performance, staying alert to and documenting performance problems, and enforcing the policy. Supervisors should not, however, be expected to diagnose alcohol and drug-related problems or provide counseling to employees who may have them.

If supervisors are responsible for making referrals for drug testing based on reasonable suspicion, they also must be trained on how to make that determination. We recommend that your supervisors participate in Chamber-sponsored supervisor trainings.

A partial list of supervisor trainers appears below. Contact the McMinnville Chamber for additional trainers.

Local

- **Cindy Jackson, Safe Conduct, McMinnville, (503) 472-2757**

Area

- **Clarence Belnavis, Fisher & Phillips LLP, (503) 242-4262**
- **Deb Bliven, A WorkSAFE Service, (503) 391-9363**
- **Tom Fauria, PhD, CEAP, Reliant Behavioral Health, (541) 344-6929**
- **Jerry Gjesvold, Serenity Lane, (541) 917-7453**
- **Jana Wolfgang, Wolfgang Associates, (503) 297-4113**

“As a supervisor you play an important role in the company’s overall safety program. Determining when drug and/or alcohol misuse is present in the workplace is a big responsibility. A Supervisor Training Class will assist you by teaching you the five necessary steps: 1. Observe. 2. Confirm. 3. Document. 4. Contact. 5. Test.” Cindy Jackson, Safe Conduct LLC, McMinnville



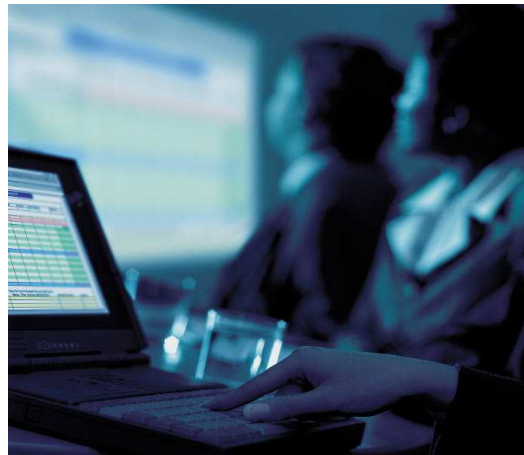
C. Employee Education

Sharing all policies with employees is essential for success; therefore, employers should be certain that all employees are aware of the company policy and drug-free workplace program.

Effective employee education programs provide company-specific information, such as the details of the drug-free workplace policy, as well as generalized information about the nature of alcohol and drug addiction; its impact on work performance, health and personal life; and types of help available for individuals with related problems.

A Powerpoint presentation has been developed by U.S. Department of Labor Working Partners for an Alcohol and Drug-Free Workplace for employers to use to educate employees about their organization's drug-free workplace policy and the dangers of alcohol and drug abuse. Visit <http://www.dol.gov/asp/programs/drugs/workingpartners/materials/materials.asp>.

All employees should participate and the message should be delivered on an ongoing basis through a variety of means. Forums for employee education may include home mailings, workplace displays, brown-bag lunches, guest speakers, seminars and sessions at new employee orientation. Many Employee Assistance Programs offer employee education (see **D. Employee Assistance**).



Educational brochures, posters, and fact sheets are downloadable from <http://www.dol.gov/asp/programs/drugs/workingpartners/materials/materials.asp>.

D. Employee Assistance

Employee Assistance Programs (EAPs) are an effective vehicle for addressing poor workplace performance that may stem from an employee's personal problems, including the abuse of alcohol or other drugs.

EAPs are an excellent benefit to employees and their families and clearly demonstrate employers' respect for their staff. They also offer an alternative to dismissal and minimize an employer's legal vulnerability by demonstrating efforts to support employees.

In addition to counseling and referrals, many EAPs offer other related services, such as supervisor training and employee education. At a minimum, businesses should maintain a resource file from which employees can access information about community-based resources, treatment programs and helplines.

A number of EAPs operating in Oregon are listed below. Be sure to contact your insurance agent or health insurer first for a resource referral.

- **Lutheran Community Services, Organizational Health Program. McMinnville (503) 472-4020**
- **Cascade EAP. Contact Myra Gibson, (503) 639-3009.**
- **Employee Assistance Services Enterprises, Inc. (EASE). Contact Bill Swift, (503) 228-0415 or ease@easeeap.com**
- **Reliant Behavioral Health EAP. Contact Tom Fauria PhD, CEAP, Oregon Clinical Manager, (541) 344-6929 or TomFa@ReliantBH.com**

For information on choosing an EAP, see the U.S. Dept. of Labor Drug-Free Workplace website at <http://www.dol.gov/elaws/asp/drugfree/drugs/assistance/screen90.asp>.

In 1995, I had reached my limit. As COO of a senior residential community in Florence, I could not retain the number of skilled employees needed. I found myself spending many hours counseling employees concerning personal problems that were affecting their work. When I filled out 84 W-2 forms for 12 positions, I knew something had to change. Immediately after implementing a drug screening program for new employees and random drug screening for all employees, there was improvement in the quality of applicants for new jobs. Over time, I noticed that our company developed a local reputation for taking drug abuse seriously. As a result, today applicants rarely test positive in the pre-employment urine screen. I also contracted with a local employee assistance program (EAP) to help employees with personal problems. I now devote much less time helping employees with their personal problems. An EAP is a small investment that you can't afford to live without. Steve Saubert, Chief Operating Officer, The Shorewood

E. Drug Testing

Some employers decide to drug test employees for a variety of reasons, such as deterring and detecting drug use, as well as providing concrete evidence for intervention, referral to treatment and/or disciplinary action.

Before deciding to conduct testing, employers should consider a few factors, including:

- **Who will be tested?** Options may include all staff, job applicants and/or employees in safety-sensitive positions.
- **When will tests be conducted?** Possibilities including pre-employment, upon reasonable suspicion or for-cause, post-accident, randomly, periodically and post-rehabilitation.
- **How will tests be conducted?** Different testing modes are available but legal advice should be sought on the constraints of Oregon law.

The current law in the private sector generally permits non-union companies to require applicants and/or employees to take drug tests. Employers can test for a variety of substances, although only a few have established testing protocols.

All employers should attend Chamber-sponsored policy writing workshops conducted by employment attorneys to ensure that their drug testing policies comply with Oregon law and can withstand legal challenges. In unionized workforces, the implementation of testing programs **must** be negotiated.

Chamber-sponsored policy writing workshops will cover testing methodology, modes of testing, drug testing procedures and use of a Medical Review Officer. Contact the McMinnville Chamber office at (503) 472-6196 for workshop schedule.



“We wouldn’t be here now if we hadn’t changed the culture of this company. We’ve seen significant reductions in costs of health insurance, workers comp, emergency room visits, and medical claims since the policy was implemented. Now we’ve changed the culture and become more of a family, can pay more and are attracting quality applicants.” Sid Smith, President, Forest Grove Lumber Company in McMinnville

E. Drug Testing, cont.

A partial list of drug testing and treatment resources appears below. Please contact the McMinnville Chamber for additional resources.

SAMHSA-Certified Drug Testing Labs (Labs meeting highest government technical standards. Employers testing pursuant to Dept. of Transportation regulations must use a SAMHSA lab)

- Legacy MetroLab, (503) 413-5295 or 1-800-950-5295 or metrolab@lhs.org
- OML DrugFree, 1-800-826-3616 x 8082 or info@omlabs.com

Medical Review Officers

- Paul Teynor, MD, MRO, (801) 486-5400
- Thomas P. Anderson, MD, MRO, (503) 246-4104
- Kirby Griffin, MD, MRO, Paragon MRO, (503) 977-3225

Drug & Alcohol Treatment

- Hazelden Springbrook, Newberg, (503) 538-1174
- Cascadia Behavioral Healthcare, (503) 872-0480 or (503) 230-9654
- OHSU Behavioral Health Clinic (503) 494-4745
- Serenity Lane Treatment Centers (503) 244-4500 or (503) 588-2804
- Creekside Counseling, Salem, (503) 371-4160
- Seasons, Salem, (503) 585-8129
- Renaissance, Salem, (503) 304-4358
- New Step, Salem, (503) 390-2600
- Pacific Ridge, Salem, (503) 361-7758

Occupational Medicine Clinics & Testing Services

- Willamette Valley Medical Center, McMinnville (503) 435-6556
- Safe Conduct, McMinnville (503) 472-2757
- Physicians Medical Center, McMinnville (503) 472-6161

Substance Abuse Professionals (SAPs) (SAPs evaluate employees who have violated a DOT drug and alcohol regulation and make recommendations for education, treatment, followup, testing and aftercare)

- Judith Ashby, LCSW, CADC I, SAP, (503) 819-1500
- Robbie Miller, MAC, SAP, CDP, CADC III, (503) 293-6188

Third Party Administrators (TPAs) (TPAs set up accounts with other service providers and provide ongoing program guidance)

- A WorkSafe Service, Salem, (503) 391-9363 or aworksafe@aol.com
- Wolfgang Associates, Portland, (503) 297-4113 or stopdrugs@aol.com

II. Business-to-Business Mentors

Because we believe that businesses need to be able to talk with other businesses about implementing a drug free workplace, the McMinnville Chamber offers Business-to-Business Mentors to assist with drugfree workplace program start-up.

Business Mentors are individuals experienced in drugfree workplace policy implementation at his or her company. Mentors have agreed to offer **phone consultations** regarding models and strategies for success in policy writing and implementation and referral to resources. They also have agreed to **share experiences** in dealing with situations regarding drug and alcohol policy implementation.

The Business-to-Business Mentorship program is intended to help local businesses, regardless of size or number of employees, implement a drugfree workplace program. Current Business Mentors include:

- Forest Grove Lumber, Perry Davis (503) 472-3195
- Cart-Away Concrete Systems, Tom Vail (503) 434-4444
- West Coast Bank, Linda Schwichtenberg (503) 474-9695
- Willamette Valley Medical Center, Cheryl Gebhart (503) 435-6371

To sign up for a Business-to-Business Mentorship or to offer to be a mentor, please contact the McMinnville Chamber at (503) 472-6196 or contact the business volunteers above directly.

"Unfortunately in my business I have encountered employees and potential employees with both "drug" and "addiction" problems. It makes total sense to have a drug free workplace and to require testing prior to hiring. Most of us realize the expense of employee turnover and anything we can do to keep those costs down is beneficial to both our fellow employees, and the employer. It's much harder to coach a person with an addiction and it can take months to dismiss them due to the documentation required to protect your company against a law suit. Not having to go down this road due to drug testing makes everyone's lives much easier, it's a preventative measure that all businesses should seriously consider" Linda Schwichtenberg, West Coast Bank, McMinnville

III. Online Resources

- This toolkit can be found on the McMinnville Chamber website under Member Resources in pdf format: www.mcminnville.org
- Workdrugfree, Oregon Nurses Foundation: www.workdrugfree.org
- Working Partners, US Dept of Labor www.dol.gov/dol/workingpartners.htm
- Drug-free Workplace Program Builder: www.dol.gov/elaws/asp/drugfree/drugs/screen2.asp
- Employee Associate Professionals Association: www.eapassn.org
- GetFit – Workplace Health & Safety: <http://GetFit.SAMHSA.gov>
- National Clearinghouse for Alcohol & Drug Information: 1.800.729.6686 or www.health.org
- ONDCP Drug-Free Workplace: <http://whitehousedrugpolicy.gov/prevent/workplace>
- SAMHSA Workplace Helpline: 1-800-WORKPLACE or <http://workplace.samhsa.gov>
- SAMHSA Model Programs: <http://modelprograms.samhsa.gov>
- SAMHSA-Certified Drug Testing Labs: http://dwp.samhsa.gov/drugtesting/Level_1_Pages/Certified%20Labs.aspx



IV. Policy Template

The following Employer Substance Abuse Policy Template was provided by Barran Liebman LLP Attorneys, www.barran.com.

We strongly recommend that you participate in Chamber-sponsored policy writing workshops, and have your policy reviewed by a labor/employment attorney before distribution and implementation. A partial list of legal policy experts appears on page 4.

Policy Statement

It is the policy of (EMPLOYER) to provide a safe and healthy work place for all employees. Employment with this organization can include some dangerous activities. Moreover, employment in general is regulated by a variety of Local, State and Federal regulations and statutes, including laws that require employers to provide and maintain a safe work place. This policy is intended to enhance our team efforts to provide a safe and accident-free work place. It is also intended to promote a working environment free from the influences of alcohol and/or illegal drugs which can affect safety as well as productivity, efficiency and quality of work.

Coverage

This policy applies to all employees (add additional categories as appropriate)

Zero Tolerance Language

This is a zero tolerance policy.

Useful Definitions

Where used in this policy, "**drug**" includes any substance which may impair mental or motor function and includes, but is not limited to, illegal drugs, substances controlled under federal or state law, synthetics, designer, "look alike," inhalants, prescription drugs which are not used in accordance with the prescription, or other similar substances. Prescription drugs not used in accordance with medical authorization are subject to regulation under this policy as well.

Where used in this policy, "**alcohol**" includes any beverage or substance containing alcohol including ethanol, isopropanol or methanol.

Where used in this policy, "**under the influence**" means having any detectable level of a drug or alcohol in one's system (including but not limited to blood and urine). It also includes having consumed alcohol or drugs so recently that there is a reasonable possibility of impairment to safe and efficient functioning, including being hung over.

Where used in this policy, "**on duty**" includes breaks, rest or meal periods taken during the work day as well as time on Employer's premises preparing for work, waiting to be assigned to work, or time spent after work preparing to leave. "On duty" also includes the time an employee is representing the company.

Where used in this policy, "**premises**" includes all company property, buildings, furniture, equipment, company vehicles, parking lots, and any location at which company business is conducted regardless of ownership.

IV. Policy Template, cont.

Where used in this policy, a "**confirmed negative**" shall mean a test result establishing that no detectable level of alcohol or drugs appears in the specimen (as determined by the testing laboratory using such procedures and cut off levels as the laboratory deems proper) on any test, provided that the specimen has been given in accordance with this policy and has not been adulterated or diluted or otherwise subject to tampering.

Prohibitions

The following acts are strictly prohibited:

- **Active use or possession.** The use or possession of alcohol, drugs, or other controlled substances (including marijuana and narcotics) while on duty, on Company premises or job sites, at Company sponsored events, or at locations under the Company's control (including parking lots). For purposes of this policy, "on duty" includes breaks taken during the work day.
- **Being under the influence.** Reporting to work, being on the premises, or working, while under the influence of alcohol or illegal drugs.
- **Manufacturing or trafficking.** The manufacture, purchase, sale, distribution, dispensation or transfer of possession of illegal drugs on Company premises, job sites, at Company sponsored events, or at locations under the Company's control.
- **Interference.** Interfering with the administration of this policy including but not limited to the search or testing process. This includes refusing to be tested, refusing or failing to cooperate during collection or testing processes, adulteration, dilution, or other forms of specimen tampering, refusal to drink liquids when otherwise unable to give a specimen, or any other conduct which has the purpose or effect of adversely affecting the Company's enforcement of this policy.

Reminder of Criminal Authority

In addition to any disciplinary action under this policy, the Company reserves the right to involve the police or other authorities to address any conduct which may also be a violation of state or federal criminal laws.

General Testing Provisions

General statement and "savings clause": The Company reserves the right to test applicants and employees in accordance with the following; however, any testing will comply with any limitations imposed by state or local law and the Company will not do any form of testing that is prohibited by the applicable jurisdiction. Testing for alcohol will be done only on reasonable suspicion.

Testing methodology. The Company will use those testing methods which are recommended by its testing laboratories including but not limited to testing of breath, blood, saliva, hair or urine, so long as those methods are acceptable in the applicable jurisdiction.

Requirement to cooperate with procedures. Applicants and employees will as a condition of employment or continued employment be required to execute such consent forms as are necessary or appropriate to ensure that this policy is followed, that testing may be carried out, and that the Company receives information from the collection and testing facilities and Medical Review Officer relevant to the enforcement of this policy. *[delete reference to MRO if one will not be used]*

Paid work time. Time spent by employees being tested will be considered work time and employees will be compensated for such time at their normal rates of pay in addition to their actual expenses for transportation. Employees who are held off work pending confirmation or retesting will be reimbursed for lost time if the final result is a confirmed negative. Employees who are required to be tested shall be tested either during the normal work day or immediately before or after normal work hours.

IV. Policy Template, cont.

Preemployment testing. All employment is subject to the applicant's successful completion of a drug test on or before the first day of actual work. Any result other than a confirmed negative shall result in the withdrawal of the offer of employment (if the applicant has not yet been hired), or termination of employment (if the applicant has been hired).

Post-accident testing. Where a work-related accident has occurred which has resulted in equipment or property damage of \$200 or more, or which has resulted in personal injury requiring off site medical attention or other than first aid, employees who the Company reasonably believes may have contributed to the accident will be tested. *(Consider limiting to drugs unless there is evidence of alcohol involvement).*

Random testing. The Company may conduct random drug testing of employees. This testing will be conducted pursuant to computer generated random selection. Employees will be notified by a supervisor or manager within 72 hours of computer selection, and must be tested within 24 hours of notification. Failure to complete the steps necessary to be tested within 24 hours of notification shall be considered a refusal to test. Where the computer generated random selection identifies employees not then working (due to vacation, sick leave, layoff, personal leave or other reasons), the Company will notify the employee within 72 hours of his/her return to work and the employee shall complete the test at that time.

Suspicion testing. Where the Company reasonably believes that an employee's performance may be impaired as a result of alcohol or drug use, it may suspend that employee pending receipt of test results. Employees whose test results in a confirmed negative will be reimbursed for time lost.

Site, job or work-group testing. The Company, at its sole discretion, require all employees at an identified job site or within an identified work group to be tested for illegal drugs.

New assignment testing. Employees who are to move to a different job assignment may, at the Company's sole discretion, be tested for illegal drugs as a condition of the move.

Split specimens and retesting. All specimens will be split, with a part of the original specimen retained in the event a retest should be requested by either the Employer or Employee. Employees who have a positive result or result other than a confirmed negative may request that the specimen be retested in accordance with this policy. Retesting must be done at a facility approved by the Company and is at the Employee's expense.

Medical treatment. No specimens will be taken from an employee while he or she is unconscious for purposes of testing under this policy. However, if tests are performed by medical professionals in the course of medical treatment, the Company may consider the results of those tests in enforcing compliance with this policy.

Results to be given to employee. An employee, on request, will be given a copy of the written test results.

Obligation to report irregularities. Employees who believe there has been an irregularity in the collection of a specimen (for example, failure to check I.D., failure to perform a temperature or specific gravity check, failure to complete chain of custody documentation) or in the testing process must notify the Company within 24 hours of the event.

IV. Policy Template, cont.

Retesting of retained split specimen. In the event a test results in a positive result, or the testing shows the presence of adulterants, the employee may request that the retained portion of the original specimen be retested. A request for a retest must be received by the Company no later than 72 hours after the original results are reported to the employee. Any retesting must be done by either the same testing laboratory or, at the employee's option, a laboratory with equivalent qualifications as identified by the Company, and will be at the employee's expense. If the retest results in a confirmed negative, that result will be accepted and the employee will be reimbursed for time lost and the cost of the retest.

Use of Medical Review Officer

Automatic. All test results will be reported directly to the Medical Review Officer and to the employee. The employee must contact the Medical Review Officer within 72 hours of being notified of the test results. The Medical Review Officer shall make a determination as to the result and make a final report to the Company.

Upon employee's request. All test results will be reported directly to the Company. Any employee with anything other than a confirmed negative result (*alternative:* an employee with a positive result) may request an opportunity to discuss the results with a Medical Review Officer. The employee must make this request, and contact the Medical Review Officer, within 72 hours of being notified of the test results by the Company. The Medical Review Officer shall make a determination as to the result and make a final report to the Company. If the employee requests a retest of a split specimen, he or she may also request an opportunity to discuss the results with the Medical Review Officer. However, in such a case to avoid duplication of effort, the contact with the Medical Review Officer should normally take place after the second test has been completed.

Right to Search

Employees and their property (including but not limited to lunch boxes and toolboxes) are subject to search while on company premises, or job sites, at Company sponsored events, or at locations under the Company's control (including parking lots). Searches may be conducted without advance notice (this policy will serve as notice) and may include entire work groups or individuals. At the Company's option, it may use dogs trained to detect controlled substances in these searches, or may contract with outside services or sources to perform the searches. Where outside services or sources are used, a Company supervisor will be present during the search. Employees may be asked to empty pockets or remove bulky outerwear.

No employee will be detained and forced to submit to a search. Employees are physically free to leave at any time. However, refusal to cooperate in a search under this policy may result in the same level of disciplinary action as would apply to the discovery of contraband.

The Company will not do any form of search or surveillance that is prohibited by state or local law.

Notification requirements.

Convictions. Employees must notify the Company's Human Resources Department of any criminal conviction arising out of drug or alcohol related conduct occurring in the workplace. This notification must be given no later than five days after the conviction.

IV. Policy Template, cont.

Prescription medication. The Company recognizes that while prescription drugs are normally used for therapeutic reasons, they also may result in the same risks as use of illegal drugs. Accordingly, use of prescription drugs is also covered by this policy. It is the employee's responsibility in the first instance to inquire of his or her physician whether the drugs will affect his or her ability to work safely and productively. If the drug in question may impair mental or motor functions, the employee shall notify the Company's Human Resources Manager *[or other employee who is responsible for medical records; do not require reporting to a supervisor]* of the use in advance of beginning work. The Company reserves the right to reassign employees using prescription drugs to a position that is less critical or safety sensitive, or initiate a medical leave until the employee is no longer required to take the drugs. If the Human Resources Manager is not available, the employee must notify a supervisor or manager. The employee is asked to keep the nature of the drugs and the condition for which they are prescribed confidential and is not required to provide information other than to advise that he or she is taking prescription drugs which may impair performance or safety. Unless otherwise authorized, employees should bring no more of their medication to the job site than is reasonable necessary for use during their work shifts. Employees taking drugs prescribed for others, or taking prescribed drugs not in accordance with the dosage recommendations identified by the prescribing physician shall not be given the benefit of this provision.

Medical Marijuana

Because marijuana remains an illegal drug under federal law, there is no exception for marijuana use under this policy. *Alternate: employees who are authorized to use medical marijuana under state law provisions must notify the Human Resources Manager before any use. The Company will evaluate the situation and if the employee is an individual with a disability the Company will explore whether a reasonable accommodation is available to address such use.*

Discipline.

Employees who violate this policy (including a test resulting in other than a confirmed negative) will be subject to disciplinary action which can include probation, suspension, termination of employment, or a requirement that the employee enroll in a rehabilitation, treatment or counseling program. Employees who refuse to test, or who interfere with or subvert the testing process, will be subject to at least the same level of discipline they would experience for a positive test result.

Social Events.

When approved by Company management, employees may consume moderate amounts of alcohol at Company sponsored social events outside normal working hours and away from work sites. Under no circumstances should this provision be used as an excuse or explanation for intoxication.

Rehabilitation and Eligibility for Rehire.

Employees are encouraged to seek professional help for a drug or alcohol problem. Employees who do so before their drug or alcohol problem leads to performance problems will be supported in their efforts to seek help; employees who delay seeking help will not be excused from the consequences of their performance deficiencies. Employees should contact their union representatives *[if any]* or the Company's benefit manager for information about available coverage or the use of sick time, personal leave, or state or federal medical leave to participate in treatment.

IV. Policy Template, cont.

Where in the Company's sole discretion it appears that rehabilitation is likely, the Company may require an employee to participate in an education or rehabilitation program as an alternative to discipline. In such cases, employees will normally be required to execute a "return to work" agreement which will include mandatory participation in a treatment or education program approved by the Company and regular unannounced testing (in addition to that required in this policy) for a specified period of time upon reemployment. Any return to work agreement shall be in addition to and not a substitute for otherwise applicable standards of performance and behavior.

Employees violating this policy (including testing positive on any test) will not be eligible for rehire with the Company for 180 days from the date of separation or withdrawal of a job offer. That period may be shortened to 90 days, however, if the individual provides proof that he or she has completed a rehabilitation, counseling or education program satisfactory to the Company.

However, if an employee violates this policy on two separate occasions, he or she shall be ineligible for rehire.

Employee Confidentiality.

The Company will treat communications and information received in conjunction with the administration of this policy as confidential as possible. Disclosures may be made to the employee or applicant or his/her designee, those Company employees involved in the supervision of the employee or in the administration of this policy, a fact finder (arbitrator, mediator, court, jury or government agency) involved in any employment related issue to which the information is relevant.

Need for Accommodation.

Employees who have disabilities which affect their ability to be tested in accordance with this policy should notify the Company at once so that arrangements can be made to determine whether a reasonable accommodation to testing procedures is possible.

Barran Liebman LLP Attorneys, www.barran.com.

Notes



Drug-Free Workplace Initiative BUSINESS TOOLKIT

Mcminnville Area Chamber of Commerce

