**DRUG & ALCOHOL TESTING**

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| COMPANY NAME is committed to maintaining a safe and healthy work environment for all employees, and we believe that a comprehensive drug testing policy is essential to achieving this goal. Our drug and alcohol testing policy is designed to promote safety, prevent accidents, and maintain productivity while treating employees with respect and dignity. This policy describes COMPANY NAME’S procedures for conducting pre-employment, random, post-accident, and reasonable suspicion drug and alcohol (“substance”) testing.  In a recovery-friendly workplace like ours, positive drug tests present an opportunity to engage employees and support them in addressing substance use and dependency issues whenever possible. This policy aligns with our recovery-friendly culture and is consistently and universally implemented as described herein. For information about our status as a recovery-friendly employer and what that means for our employees, please see the HCPH Recovery Friendly toolkit. In addition, managers and supervisors should refer to standard operating procedures and training for specific instruction.    This policy was developed after research and review by HR practitioners, legal counsel, and medical professionals and is based on prevailing best practices at the state and national levels. |
| Scope |
| This policy applies to all current employees of COMPANY NAME—including but not limited to individuals in full-time, part-time, temporary, permanent, seasonal, internship, externship, volunteer, or contract roles.  This policy also applies to all job candidates once they have received a written conditional offer of employment. |
| Policy Elements |
| COMPANY NAME will issue drug and/or alcohol tests to prospective and existing employees throughout the employment relationship to ensure compliance with our Drug & Alcohol Policy. Below we outline when, to whom, and why we issue drug and alcohol tests.   1. Prior to any and every drug & alcohol test, employees must sign a Consent to Drug & Alcohol Screen form. HR or their direct supervisor will provide this form directly to employees. 2. Employees will be provided with the opportunity to test during their normal work hours and will receive their regular rate of pay. Should that not be possible, the employee will be compensated for the time spent testing, up to X hours per test issuance/incident. Prospective employees are not paid for their time. 3. Employees will be paid for the travel time to the testing site and their return travel should they be permitted to return to work. 4. The cost of all initial testing will be covered by COMPANY NAME, including confirming any positive test result by gas chromatography or another standard testing method determined by the testing facility. 5. Employees are responsible for covering the cost of any re-test they request. 6. In the case of random drug tests, employees may report to work immediately after testing. In all other cases—Post-Accident or Reasonable Suspicion testing—the employee may not return to work until testing results have been interpreted and released to COMPANY NAME and all internal investigation is complete as determined by HR. Tested volunteers and students will be temporarily relieved from service. 7. Existing employees are placed on unpaid administrative leave pending the results. Should the results prove to be negative, employees will receive back pay for the times/days on leave. 8. Prospective employees may not begin employment until testing results are confirmed to be negative. 9. COMPANY NAME will use a certified laboratory. See **Test Procedures** below. 10. COMPANY NAME will utilize a Medical Review Officer (MRO). See **Test Procedures** below. 11. After the test results are received, a date and time will be scheduled between HR and the employee to discuss the test results; this meeting will include HR, a member of management on occasion, and a union representative (upon request), if applicable. 12. COMPANY NAME may consider test results generated by law enforcement or medical providers as work rule violations.   **PRE-EMPLOYMENT TESTING:**   1. Pre-employment testing will not be administered until the employee is issued a conditional offer of employment. 2. Upon receipt of an offer of conditional employment, candidates must complete required drug testing within X hours. 3. Under no circumstances shall any individual begin employment without having completed and obtained a negative result upon the testing described in this policy. 4. Pre-employment testing will not include an alcohol screen.   **RANDOM TESTING:** Tests using an unpredictable selection process are the most effective for deterring illicit drug use. We will randomly test employees for illegal drug use or prescription drug misuse.   1. Employees will not receive prior notice of testing. 2. Employees are selected through computerized random number generators. Each employee is equally likely to be chosen. Being selected for testing on one occasion shall neither increase nor decrease the likelihood of the same employee being selected for testing on future occasions. 3. HR will notify employees if they are selected.    1. If a selected employee is unavailable for a legitimate reason as defined below, HR will document the circumstances for failure to test.    2. No employee or representative of COMPANY NAME can bypass or replace selected employees unless the employee is traveling out of town, has pre-approved leave/time off, or is on a leave of absence, in which case HR can utilize the same tool above to select a replacement randomly.    3. Neither employees nor any person acting as the employee’s representative can waive participation in drug or alcohol testing. 4. Employees must complete testing as soon as is reasonably possible, to be at most X hours of being notified. 5. X% of COMPANY NAME’S workforce will be tested randomly throughout the year. 6. COMPANY NAME commits to performing regular adverse impact testing on our substance screen process. 7. Employee will be responsible for getting to and from the testing facility. 8. Employees in safety-sensitive positions or those that require driving may be subject to more frequent testing. 9. Employee should return to work immediately following testing in a reasonable amount of time as determined by HR.   **POST-ACCIDENT TESTING.** Testing employees involved in workplace accidents or unsafe practices can help determine whether alcohol or other drug use contributed to the incident. Testing is done to promote the safety and health of employees, not as a penalty for accident involvement.   1. Employees are subject to testing when they cause or contribute to accidents that:    1. Result in a workplace injury that requires offsite medical attention (beyond first aid) to any person.    2. Is subject to a potential claim of Worker’s Compensation.    3. Involve an accidental death of and/or caused by an on-duty employee.    4. Involve a company-owned vehicle or vehicle owned by an employee using that vehicle while conducting business at the time of the accident.    5. Results in property damage of $X or more. This includes damage to COMPANY NAME vehicle, machinery, equipment, or property.    6. Involve at least one on-duty employee and one non-employee member of the public.    7. Persons tested could include those operating a motorized vehicle (including a forklift, pickup truck, overhead crane, or aerial/man-lift) and found to be responsible for causing the accident. 2. Employees must complete testing as soon as possible, at most X hours of being notified of their requirement to test. 3. A positive result on a substance screen following an accident that results in a workplace injury to the test employee may, under Ohio law, void the employee’s ability to be compensated for the injury via the State Bureau of Worker’s Compensation system. 4. Under no circumstances will the employee be allowed to drive themself to the testing facility. Instead, a member of management must transport the employee or arrange for transportation to the testing site and home.   **REASONABLE SUSPICION TESTING**   1. Reasonable suspicion of drug and/or alcohol use may be based on: (1) observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol; (2) a pattern of abnormal conduct or erratic behavior in the workplace; (3) information provided by reliable and credible sources regarding the covered individual’s violation of this policy and/or our Drug & Alcohol Policy; (4) newly discovered evidence that an individual tampered with a previous drug test; or (5) conviction for a drug-related offense. 2. Reasonable suspicion testing shall also include incident-based accident or unsafe practice testing wherein employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to themselves, others, or the overall operation of the agency may be subject to testing. 3. When (1) or (2) are the reasons for testing, observations must be made by at least two members of management, including HR, safety, and security personnel.    1. HR must be consulted before sending an employee for testing.    2. Below is a sample list of observations that may lead to reasonable suspicion testing. These factors are intended to be considered in the aggregate, such that the presence of one or more may lead to testing. For example, someone simply using mints or chewing gum would obviously not be subject to reasonable suspicion testing in the absence of other factors present:       * 1. Odors: alcohol, body odor, urine, feces, using mints, gum, or other concealers         2. Movements: unsteady, fidgety, dizzy, tremors, loss in dexterity         3. Eyes: dilated, constricted, or watery eyes, closed, bloodshot, droopy, glassy, or involuntary eye movements         4. Appearance:            1. Face: flushed, sweating, pale, confused, or blank look            2. Progressive deterioration in personal appearance and hygiene            3. Lack of cleanliness         5. Speech: slurred, slow, distracted mid-thought, inability to verbalize thoughts, rambling, shouting, rapid, whispering         6. Emotions: argumentative, agitated, unusual irritability, drowsy         7. Actions (yawning, twitching):            1. Sudden unexplained changes in behavior which adversely impact work performance and/or errors in judgment, deterioration in performance, and quality of work.            2. Increases in the effort and time required for ordinary tasks.            3. Violation of safety policies.            4. Calling in sick frequently; unexplained tardiness; early departure; extended breaks; frequent disappearances from the worksite; long, unexplained absences; improbable excuses.            5. Unreliability in keeping appointments and meeting deadlines.         8. Inactions: sleeping, unconscious, no reaction to questions.         9. Walking: slow, jerky, falling, staggering, stumbling, swaying, unsteady.         10. Standing: rigid, swaying, sagging knees, staggering, unable to maintain posture.         11. Demeanor or conduct: opposite or exaggerated, erratic, inappropriate comments, inappropriate gestures, drowsy or sleepy, crying, fumbling, nervous, belligerent, threatening, profane, hyperactive, sarcastic, talkative, excited, confusion, lying.             1. Personality changes or disorientation.             2. Memory lapses.             3. Isolation.             4. Problems with interpersonal relations with co-workers. 4. Supervisors and managers shall be trained to address the misuse of lawful substances and use of illegal substances by employees, to recognize facts that give rise to reasonable suspicion, and the proper procedures for documenting facts and circumstances to support a finding of reasonable suspicion as required by collective bargaining agreements.   - Failure to receive such training shall not invalidate otherwise proper reasonable suspicion testing.   1. When reasonable suspicion testing is warranted, management, HR, or a member of COMPANY NAME’s legal team will meet with the employee to explain the observations. 2. Employees must complete testing as soon as possible, not exceeding X hours of being notified of their requirement to test. 3. Under no circumstances will the employee be allowed to drive themself to the testing facility. Instead, a member of management must transport the employee or arrange for transportation to the testing site and home.   **Return-to-Work Drug & Alcohol Testing.** Employees returning to work according to a Second Chance Agreement or following an absence due to illness or injury may be subject to testing. See our policy: **Second Chance**, for more information. |
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# Substances Covered by Testing

COMPANY NAME will test employees for the use of the following:

* Amphetamines
* Barbiturates
* Benzodiazepines
* Opiates
* Cannabinoid
* THC
* Cocaine
* Methadone
* Methaqualone
* Phencyclidine (PCP)
* Propoxyphene
* and chemical derivatives of these substances.
* Ethanol (only for post-accident testing and reasonable suspicion testing)

Employees and candidates must advise the testing lab of all prescription drugs taken in the 30 days immediately prior to testing. They must be prepared to show proof of such prescriptions to lab personnel upon request. Employees will have X hours to submit proof. Failure to produce proof results in a report of a positive test to COMPANY NAME. If proof is provided and the third-party test reader still has concerns regarding appropriate use in general and/or permitted use, given one’s work responsibilities, the test will be reported as “negative with a safety concern.”

# Testing Methods & Procedures

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| All testing will be conducted by a licensed independent medical laboratory, which will follow testing standards established by the state or federal government. Testing will be conducted on a urine sample provided by the employee or candidate to the testing laboratory under procedures set by the laboratory to ensure the individual’s privacy while protecting against tampering/alteration of the test results. Participating individuals may provide specimens in private unless they appear to be submitting altered, adulterated, or substitute specimens.  Testing will conform to scientifically acceptable collection, identification, handling, and analytical methods, including confirmation of any positive test by a method consistent with industry standards. In addition, the testing will include a documented chain of custody, a screening test; and a confirmation test performed by a certified laboratory for any screening test reported positive.  Upon arriving at the collection site, the employee will be asked to sign a waiver consenting to the test. The procedure for sample collection shall allow privacy for the test subject. Storage and transportation shall be performed to reasonably preclude sample contamination or adulteration. Reasonable efforts will be made concerning the dignity of the individual tested.  The testing lab will retain samples per state law, so an employee may request a retest of the sample at their own expense if the employee disagrees with the test result.  Any individual who tests positive for drugs will be contacted by a Medical Review Officer (“MRO”) (a health care professional with expertise in toxicology) before the result is reported to COMPANY NAME. Employees will be given the opportunity to discuss legitimate explanations for the positive drug test. In addition, the MRO may conduct any investigation they deem necessary, including but not limited to interviewing the individual testing positive, reviewing the individual’s medical history and medical records to determine if the positive result was caused by a legally prescribed medication, requiring proof of a legal prescription; requiring a re-test of the original specimen; and/or verifying that the laboratory report and the specimen are correct. The MRO will be required to conduct themself per guidelines published in the Medical Review Officer’s Manual published by the Department of Health and Human Services.  Training technicians will test breath specimens using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration is .04 or more, a second breath specimen will be tested approximately 20 minutes later. The results of the second test will be determinative. Alcohol tests may, however, be a breath, blood, or saliva test at the company's discretion.  Tests will seek only information about the presence of drugs and alcohol in an individual’s specimen and will not test for any medical condition. |
| Right to Review & Explain Test Results |
| COMPANY NAME will provide a copy of test results upon written request to candidates and employees who test positive. Employees have the right to discuss their test results with testing laboratory personnel and COMPANY NAME HR. These discussions are considered confidential. Laboratory personnel will share disclosed information with COMPANY NAME personnel as appropriate. The employee may share any relevant information, including identification of current or recently used prescription or non-prescription drugs or other relevant medical information. |
| Right to Request Re-Test |
| Individuals with positive test results may ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's expense. Such requests must be made within X hours of notice of test results. If a confirmatory re-test requested by the employee or applicant fails to reconfirm the original test result, the MRO will cancel the original test, and the test will be treated as a negative result.  In no event should a positive test result be communicated COMPANY NAME until such time that the MRO has confirmed the test to be positive  This retest is at the expense of the individual unless the original test result is called into question by the retest. |
| Consequences of Positive Test |
| For purposes of this policy, a positive drug or alcohol test shall consist of the presence of any detectable amount of an illegal drug or alcohol in any amount in the employee’s system when tested. Employees who test positive will often be offered participation in our Second Chance Program. Please see our policy: **Second Chance**, for more information.  The Americans with Disabilities Act (ADA) protects employees with disability, disease, or medical condition from discrimination by employers. It also affords employees the right to request and receive reasonable accommodation so that they can successfully perform their job. While the ADA considers substance use disorder a covered condition, current alcohol or illegal drug use is not protected. Employees are encouraged to disclose substance use disorder or issues with substance use and dependency before being approached for testing.   * Pre-Employment Test   + The employment process will be suspended until the candidate satisfactorily completes the required steps of the Second Chance Program. * Random Test   + The employee will be invited to participate in our Second Chance Program. * Post-Accident Test   + The employee may be invited to participate in our Second Chance Program pending the outcome of any disciplinary action resulting from the employee’s involvement in said workplace accident. * Reasonable Suspicion Test   + The employee may be invited to participate in our Second Chance Program pending the outcome of any disciplinary action resulting from the performance and conduct issues that first prompted reasonable suspicion testing.   Individuals participating in our Second Chance program may not return to work until cleared by a qualified treatment provider and after achieving a negative result on a return-to-work substance screen. |
| Inspection |
| As a result of a positive test, COMPANY NAME reserves the right to:   * Inspect all portions of its premises for drugs, alcohol, or other contraband or paraphernalia. * Search company property such as desks, offices, cubicles, closets, drawers, cabinets, lockers, and other work areas. * Search vehicles brought onto the property as well as an employee’s or visitor’s personal property, including but not limited to purses, briefcases, backpacks, lunch boxes, toolboxes, and bags.   HR will be notified before any search takes place, when possible.  Searches will be performed by HR, a member of management, or safety or security personnel. Refusal to consent to such searches may be considered insubordination and a violation of this policy.    Please see our policy: **Inspections,** for more information. |

# Disciplinary Action or Consequence

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| Any employee or prospective employee who fails to comply with this policy will be subject to disciplinary action, up to and including the termination of their employment with cause.  Employees that refuse to participate in testing and fully cooperate with testing personnel are subject to discipline, up to and including termination. Refusal to test or abide by the rules of the testing process as outlined by COMPANY NAME or the third-party testing center makes the employee ineligible for participation in our Second Chance Program. Employees who refuse to be tested must sign a Refusal To Test form, which informs them that upon refusing to test COMPANY NAME will terminate employment. Prospective employees that refuse to test or fully cooperate with testing personnel will not be eligible for employment, and their offer will be rescinded.  Employees and prospects will be subject to disciplinary action, up to and including termination of employment, if they:   * Refusal to sign the Content to Test form AND the Refusal to Test form (employees must sign one) * Refuse test. * Rail to follow testing procedures. * Fail to report to the testing facility in the permitted time. * Fail to cooperate with laboratory personnel or COMPANY NAME personnel. * Attempt to adulterate, dilute, or otherwise tamper with a test specimen. * Fail to provide a suitable sample (and testing personnel determines that it is intentional).   An existing employee who has completed or is in the process of completing the second chance program will be subject to termination for the above. |
| Re-Application & Rehire |
| The company will not rehire any employee that was terminated for cause. This includes individuals removed from service due to their inability to comply with policy, including this one, our Second Chance policy or our Drug & Alcohol Use policy. See our policy: **Rehire**. |

# Responsibility & Enforcement

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| * The human resource (HR) department is responsible for policy administration, interpretation, and enforcement. * Every employee is responsible for promptly reporting suspected violations of this policy to HR. * Every employee is responsible for ensuring third-party vendors, partners, contractors, and visitors know this policy and their individual responsibility to comply. * Managers are responsible for staying informed on the details of this policy, understanding how to apply this policy, fulfilling their relevant managerial responsibilities such as maintaining documentation, addressing potential policy violations, seeking information to make informed decisions, connecting employees to HR and other resources, keeping HR and other appropriate members of manager informed, and more. * COMPANY NAME may bring violations of this policy to the attention of appropriate law enforcement authorities. |

# Confidentiality

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| Information and records related to substance use disorder, drug and alcohol use and dependency, risk assessment, reasonable accommodation requests, reasonable suspicion checklists, post-accident reports, and fitness for duty examination will be maintained in secure files separate from normal personnel files and kept confidential to the extent required by law. Such records and information may be disclosed among managers and supervisors on a need-to-know basis. They may also be disclosed when relevant to a grievance, charge, claim, or other legal proceeding initiated by—or on behalf of—an employee or applicant.  Information may be shared within the applicable chain of authority or chain of communication to the extent they need it to perform their responsibilities in support of the employee. Nothing in this policy may be construed as a promise or guarantee of confidentiality.  See our policy: **Privacy & Confidentiality,** for more information. |

# Related Policies

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| * Drug & Alcohol Policy * Fitness for Duty * Inspections Policy * Second Chance Policy * Privacy & Confidentiality Policy * Re-Employment Policy * Workplace Accident Policy * Workers Compensation Policy |

# Related Laws

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| * Drugfree Workplace Act of 1988 * Americans with Disabilities Act * Department of Transportation regulations * National Labor Relations Act * Occupational Safety & Health Act * Union regulations * Workers’ compensation regulations * Regulations applicable to law enforcement * Regulations for safety-sensitive positions established by the Department of Defense and the Nuclear Regulatory Commission * The Fourth Amendment |



**IMPORTANT INFORMATION**

This policy should not substitute for independent legal review of local, State and Federal laws applicable to your agency. Consult an attorney prior to the implementation of any new policy.

HCPC recognizes that every employer has a different history of dealing with issues of substance use disorder as it affects the workplace, especially where those issues concern recovery from substance use disorders. HCPC further recognizes that each employer’s unique history warrants consideration when confronted by similarly situated individual cases. Accordingly, this toolkit is meant as a bridge from past practices and as a guide and resource to assist employers in implementing recovery-aligned workplace policies.

Before implementing practices recommended by the toolkit or as issues are encountered that implicate those practices, HCPC recommends consulting legal counsel, as nothing in the toolkit is intended to provide legal advice or counsel either generally or in individual circumstances. By furnishing this resource, HCPC does not assume any liability for any claims made by any individuals or entities, including the recipient of the toolkit, for consequences that may relate to the toolkit, its implementation, or specific handling of employee matters guided by the toolkit or policies recommended thereby. As a condition of HCPC’s agreement to furnish the toolkit to a participating employer, any employer that has requested and received the toolkit thereby releases and agrees to defend and indemnify HCPC, its officers, directors, employees, agents, and insurers, as the case may be, from any and all claims, costs, damages, or liability that may arise from policies implemented after receipt of, on the basis of, or otherwise influenced by, the toolkit.