



Drug Testing and Opioids

Drug testing is recommended to keep employees, equipment and property safe. Employers should have a clear, detailed drug testing policy that is communicated to all employees and implemented consistently. It is essential to use a certified lab with a medical review officer to verify positive results and evaluate medical explanations for certain drug test results.

KEY STEPS IN DEVELOPING DRUG TESTING PROGRAMS AND POLICIES

Have strong policies in place for testing schedules and actions to be taken in the event of a positive drug screen. Policies should always be clearly written and easy to understand, communicated to employees, and consistently enforced.

Choose the type of testing that is relevant for your organization

- Urine testing (most common, wide range of drugs can be detected, can be manipulated by the employee if observed collection is not used)
- Oral fluids testing (less invasive, not available for as many drugs as urine testing)
- Hair testing (more expensive, detects use in the past 90 days, less effective for benzodiazepines)

Choose a panel that tests for drugs that are predominant in your area. These may include:

- Alcohol
- Benzodiazepines
- Illegal opiates (heroin, fentanyl)
- Oxycodone
- Methadone
- Cocaine, amphetamines and other stimulants
- THC – some workplaces are moving away from testing for THC due to new cannabis laws; if you are in a state where cannabis is legal for medicinal or recreational use, work with an attorney or legal counsel to ensure your drug testing policy is in compliance with all relevant legal considerations

Other Considerations

Some employers require drug testing programs that address requirements for safety-sensitive positions, union or federal guidelines, such as the Department of Transportation guidelines for commercial drivers.

Not all urine drug screens test for all opioids – choose a 10 or more panel test to ensure all opioids will be detected during screening. In 2019, NSC's Opioids At Work Employer Survey found that only one in three employers who drug test use screens that will identify all opioids.

Choosing when to drug test

Each employer must decide when to test. This decision must align with federal, state and municipal regulations, and should reflect the values and priorities of the organization. Some options are:

- **Pre-employment testing:** avoid hiring people who are misusing legal drugs or using illegal drugs
- **Post-incident testing:** determine if drug use was responsible for an error or injury, and protect the organization in case of related litigation
- **Reasonable suspicion:** drug free workplace policy should define objective factors such as appearance, speech, behavior and work performance
- **Random testing:** non-discriminatory testing for employees in safety-sensitive positions, including full-time, part-time, temporary, seasonal and on-call employees
- **Return-to-duty or follow-up testing:** for employees returning to work after treatment
- **Routine fitness-for-duty exams:** as required for members of a class of employees

Last chance agreements

Not all positive drug screens must result in termination. Employers can decide to implement a “last chance” (sometimes called a second chance) policy, in which employees who have a positive drug test can keep their job based on certain conditions for continued employment.

These conditions may include:

- Required assessment by a certified substance use professional, and if indicated, enrollment in substance use treatment
- Modified, individualized drug testing policies (testing at a higher frequency or at different intervals)
- Working with an Employee Assistance Program or other certified third party (with employee consent) to monitor progress in treatment

A meeting with the HR professional, the employee, and the supervisor should occur before an agreement is signed, and conditions must be made clear to the employee. Last chance agreements must be documented in written form and signed by all parties.

Return-to-work policies

When an employee returns to work (during or after treatment, or otherwise), expectations and requirements of the employee must be agreed upon ahead of time and documented. Return to work should only occur after approval by a medical professional, and should include any medical restrictions or limits suggested by the medical professional. Return-to-work agreements may include a probationary period, the duration of which should be agreed upon ahead of time and documented.

Recovery from substance use disorders is a long-term process – sometimes lifelong. Effective return-to-work strategies can also include working part time, telecommuting, modifying work duties, modifying schedules, and implementing other reasonable accommodations. This can provide employees with the tools and resources they need to carry out their responsibilities while still taking time to focus on their recovery.

Key Steps for Employers

- ✓ Always ensure policies are communicated clearly and enforced consistently
- ✓ Choose the type of testing that is most relevant for your organization
- ✓ Choose the panel that is most appropriate for your organization
- ✓ Choose when to drug test
- ✓ Consider “last chance” agreements and return-to-work agreements

Legal Implications

Every component of the drug free workplace program must:

- Be developed in partnership with the organization’s legal advisers
- Safeguard employee confidentiality
- Comply with federal, state and local regulations, including but not limited to OSHA, the Americans with Disabilities Act, Mental Health Parity Act and HIPAA
- Comply with union and industry regulations

The Opioids at Work Employer Toolkit has been developed to raise awareness with businesses about how to respond to the risks associated with the misuse of opioids and other drugs. The content is meant for educational purposes only and not for the purpose of providing legal advice or replacing the work needed to develop a responsible drug-free workplace program. As such, it should not be used as a substitute for consultation with a legal professional, or other competent advisor.

Medical advice and information in this document were approved by NSC physicians who advise the Council on our substance use harm initiatives. These doctors also are members of the [NSC Physician Speakers Bureau](#).